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World Peace Foundation Pamphlets

VOLUME VI
1923

WORLD PEACE FOUNDATION
40 MT. VERNON STREET, BOSTON

World Peace Foundation

Boston, Massachusetts

*FOUNDED IN 1910 BY EDWIN GINN

The corporation is constituted for the purpose of educating the people of all nations to a full knowledge of the waste and destructiveness of war, its evil effects on present social conditions and on the well-being of future generations, and to promote international justice and the brotherhood of man; and, generally, by every practical means to promote peace and good will among all mankind.—*By-laws of the Corporation.*

It is to this patient and thorough work of education, through the school, the college, the church, the press, the pamphlet and the book, that the World Peace Foundation addresses itself.—Edwin Ginn.

The idea of force can not at once be eradicated. It is useless to believe that the nations can be persuaded to disband their present armies and dismantle their present navies, trusting in each other or in the Hague Tribunal to settle any possible differences between them, unless, first, some substitute for the existing forces is provided and demonstrated by experience to be adequate to protect the rights, dignity and territory of the respective nations. My own belief is that the idea which underlies the movement for the Hague Court can be developed so that the nations can be persuaded each to contribute a small percentage of their military forces at sea and on land to form an *International Guard or Police Force.*—Edwin Ginn.

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LEAGUE *of* NATIONS

Vol. VI No. 1

THE WORLD COURT

By

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Secretary of State

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HERBERT HOOVER
Secretary of Commerce

EDWARD MANDELL HOUSE
American Commissioner, Paris Peace Conference

THE AMERICAN PEACE AWARD

Created by EDWARD W. BOK

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I. THE PRESIDENT AND THE COURT

Address of the President at a Luncheon of the Associated Press, Waldorf-Astoria Hotel, New York, April 24, 1923

Mr. President, Members of the Associated Press and Guests: It is inevitable that the President, who happens to be a newspaper man, appearing before a newspaper gathering, must talk some kind of shop. I am willing to make the confession that I would rather talk newspaper shop to you than anything else. I believe I could do it helpfully sometimes, because I have had my viewpoint about journalism broadened while twisting around occasionally in the Executive chair. Frankly, I have never squirmed under the criticism, but I have sometimes been appalled at inaccuracy of statement, and if I were going to lecture on journalism my theme would be "a little less eagerness and much more of accuracy."

Not very long ago I returned from a southern vacation and picked up a copy of a very friendly publication, and in a story on the first page was the statement that during my trip South I had broken all but two of my golf sticks and was in the process of having them replaced. Now, that was not very serious to the country, but it put me out of the duffer class and in among the dubs, and I resented it. Nobody breaks eight golf sticks in five weeks. It can not be done. And yet, as one of the three golf-playing Presidents, I have been crucified as a destroyer of sticks, eight in number in five weeks.

During the closing days of the last session of Congress I sent to the Senate a communication asking its advice and consent to the adherence by the Government of the United States to a protocol establishing an International Court of Justice. Out of this simple, natural, normal proceeding has developed so much of mystery and so much of misunderstanding and so much of protest and approval and so much of threatened muddying of the political waters, that I welcome this opportunity on so appropriate an occasion to reveal to the American people both the purpose and the motives impelling.

Ours is popular government through the agency of political

parties, and it must be assumed that the course of the successful party, which is at the same time an honest party, must be fairly charted by the platform of that party and by the utterances of its candidates when appealing for popular approval. And on that assumption it is seemly to recall now the declarations of the party in power relative to the promotion of international relationships. As a matter of fact, our Republic began its expansion of influence and participation in world affairs under the gentle and martyred McKinley, and in his days political parties were beginning to speak of arbitration and promoted international friendships and expanded influence.

Record of Political Platforms

In 1904 the national platform of the Republican Party said "we favor the peaceful settlement of international differences by arbitration." Four years later, in the national convention of 1908, the party in its platform alluded to the progress made in keeping faith with the previous declaration and said:

"The conspicuous contributions of American statesmanship to the cause of international peace so strongly advanced in the Hague Conference are occasions for just pride and gratification. . . . We indorse such achievement as the highest duty of a people to perform and proclaim the obligation of further strengthening the bonds of friendship and good will with all the nations of the world."

Then, in 1912, the Republican platform—the national platform—made a very explicit declaration relating to an international court of justice. I quote again from the party covenant of faith:

"Together with peaceful and orderly development at home, the Republican Party earnestly favors all measures for the establishment and protection of the peace of the world, and for the development of closer relations between the various nations of the earth. It believes most earnestly in the peaceful settlement of international disputes and in the reference of all controversies between nations to an international court of justice."

The next formal and solemn pledge was made in 1916. I quote again:

"The Republican Party believes that a firm, consistent and

courageous foreign policy, always maintained by Republican Presidents in accordance with American traditions, is the best, as it is the only true, way to preserve peace and restore to us our rightful place among nations. We believe in the peaceful settlement of international disputes, and favor the establishment of a world court for that purpose."

In 1920 the question of our foreign relationship was very acute. The Senate had rejected the Versailles treaty and the League of Nations pact. The convention at Chicago voiced its approval of the rejection but was unwilling to pledge aloofness from the world. Therefore it said in its platform pronouncement:

"We pledge the coming Republican administration to such agreements with other nations of the world as shall meet the full duty of America to civilization and humanity, in accordance with American ideals, without surrendering the right of the American people to exercise its judgment and its power in favor of justice and peace."

As a participant in the making of some of these platforms and as the banner bearer in one campaign, I have the right to believe they spoke the party conscience so plainly that it is not easy to misconstrue.

But there are other utterances which it is seemly to recall. I allude to the interpretation of the platform by the candidate in 1920. On August 28, 1920, speaking on the League of Nations proposal I said frankly and very definitely I did not favor the United States entering the League of Nations. It was declared then that the issue, as defined between the candidates, involved the disparity between a world court of justice, supplemented by world association for conference, on the one hand, and the Council of the League on the other. And quoting further from the same address I recall that I said:

"The one is a judicial tribunal to be governed by fixed and definite principles of law, administration without passion or prejudice. The other is an association of diplomats and politicians, whose determinations are sure to be influenced by considerations of honest expediency and national selfishness. . . . One a government of laws and one a government of men."

As Candidate and President

And in that same address I commended the Hague tribunal. One paragraph is particularly appropriate to quote afresh. I quote:

"I believe humanity would welcome the creation of an international association for conference and a world court, whose verdicts on justiciable questions this country, in common with all nations, would be willing and able to uphold. The decision of such a court, or the recommendations of such a conference, could be accepted without sacrificing on our part, or asking any other power to sacrifice, one iota of its nationality."

So much for political party history. I have quoted it because I believe in keeping the faith. If political parties do not mean what they say, and if political candidates do not mean what they say, then our form of government, our form of popular government, is based on fraud and can not hope long to endure.

In compliance with its pledges the new Administration which came into power in March, 1921, definitely and decisively put aside all thought of the United States entering the League of Nations. It does not propose to enter now by the side door, or the back door or the cellar door.

I have no unseemly comment to offer on the League. If it is serving the old world helpfully, more power to it. I would welcome the demonstration of its utility in a condition which loudly calls for help. But, it is not for us. The Senate has so declared, the Executive has so declared, the people themselves have so declared. Nothing could be stamped more decisively with finality.

And in the further keeping of the faith, the Administration made a treaty of peace with Germany, a just treaty, which so impressed our wartime enemy that when we came later on to set up a mixed claims commission to settle the claims of American nationals against Germany, that nation named one commissioner, we named one, and then for the first time in the history of international relationships, Germany asked us as a contending nation to name the umpire, the third member, whose vote would decide all differences. I know of no like tribute to a nation's fairness in all the records of history.

Then in the fulfillment of the pledge of free conference, the inter-

national conference on the limitation of armaments was called, not in haste, not because someone was prodding, but as early as the barriers to success could be removed. The spirit of that conference and the achievements wrought have been written into history and will grow immeasurably beyond the almost universal popular favor already accorded. There was not alone the triumph of reducing naval armaments, and ending competition which was leading to oppressive naval strength, and adding staggering burdens to the treasuries of competing powers; not alone the removal of every war cloud and every reason for conflict in the Pacific, so that now accord and concord abide, where suspicion and fear had previously dwelt, but we gave an example to the world of the conference way to peace, which time will appraise as the supreme accomplishment.

The Administration and the Court

Hardly had that gratifying work been accomplished before the Administration began its endeavors for further fulfillment. Meanwhile an International Court of Justice had been established. It was an agency of peaceful settlement which had long been sought. Its establishment previously had failed because no agreement had been possible over the method of electing judges. The existence of the League of Nations offered a solution. Almost all the Members of the League had signed the protocol establishing the Court. The members of the Council, in which the large powers have permanent representation, afforded one voting body with a veto on the members of the Assembly consisting of representatives of all nations, and members of the Assembly could have a veto on the larger powers permanently represented in the Council. Here was a device for electing judges which removed the heretofore unsolvable problem of a satisfactory means of selecting them. Not the Council, but the nations members thereof, must vote in majority for the same candidates for which members of the Assembly vote in majority, else the election is void until a conference points the way to an agreement.

The Court was established and is functioning. An American judge sits on the Court, though we had no part in choosing him.

Under the provisions of its establishment the United States

can apply for a court decision on any justiciable question, even as any nation participating in its establishment. Perhaps the Court is not all that some advocates of the court plan would have it, but it is in a large measure the fulfillment of an aspiration we long have boasted for the United States of America; so I thought, and I still think, we ought to be a party to the agreement and assume our part in its maintenance and give to it the benefit of such influence as our size and wealth and ideals may prove to be.

For mere eligibility to appeal to the Court, nothing was needed. But it did not seem fair to seek its advantages without accepting all becoming responsibilities, and here developed the stumbling-block. Naturally, we should wish to participate in selecting the judges, and the electors designated were Members of the League. We had no thought of joining the League, we sought none of its offerings and will accept none of its obligations. The President could propose no solution to the signatory powers, because the world had witnessed in disappointment the spectacle of an Executive proposing and the Senate disposing. It was not desirable to make some proposal abroad that could not be carried out; indeed, none would be considered, and it was not pleasing to think of asking the Senate's consent to a program to which the nations concerned would not agree. So, very informally and very discreetly, and over a considerable period of time, the situation was felt out, and when satisfied that there was an appropriate course of action without connection with the League, provided the Senate consented, I proposed adherence to the court protocol, and asked the Senate's consent.

The documents speak for themselves. It was pointed out that no rights under the League and no obligations of the League would be incurred, but to make certain that we would not be involved, the letter of the Secretary of State suggested suitable reservations to afford ample guaranty.

There is the complete recital. It is in harmony with platform pledges, candidatorial promises, and, I believe, with American aspirations. The Senate's decision was hardly to be expected amid the enormous pressure of business incident to the closing weeks of the short session. But I felt that the Senate, the country, and the friendly nations whose counsel we had sought, were

entitled to know that our gestures abroad were sincere, and that our own people should know that there are no secrets about our purposes at home, once they are matured.

The Position of the Senate

Excessive friends of the League have beclouded the situation by their unwarranted assumption that it is a move toward League membership. Let them disabuse their minds, because there is no such thought among us who must make our commitments abroad. And the situation is likewise beclouded by those who shudder excessively when the League is mentioned, and who assume entanglement is unavoidable. Any entanglement would first require an assent of the Senate, and if by any chance the Senate approved of any entanglement, the present Administration would not complete the ratification. If, in spite of these statements, uttered with full deliberation, there are excessive and unfounded hopes on the one hand, or utterly unjustifiable apprehensions on the other, I know of no words fittingly to apply.

Frankly, there is one political bugbear. When we discussed the League of Nations and its rule of force, with its superpowers through a political council and assembly, I myself contended as a Senator for equal voting power on the part of the United States with any nation in the world. With her dominions members of the League Assembly, the British Empire will have six votes in that branch of the court electorate, but it has only one in the electorate of the Council. In view of the fact that no nation can have more than one judge, it is a less formidable objection than when applied to the League as a superpower, dealing with problems likely to abridge a nation's rights. I appraise the objection now as one who voted against this disparity of power in the League Assembly, but in an appraisal now I do not hesitate to say that if other great powers can accept without fear the voting strength of the British dominions, when these great powers are without the ties of race to minimize international rivalries and suspicions, we ought, in view of the natural ties of English-speaking kinship, to feel ourselves reasonably free from danger.

The perfected Court must be a matter of development. I earnestly commend it because I think it is a great step in the right

direction toward peaeeful settlement of judieable questions, toward the elimination of frietions which lead to war, and a surer agency of international justice through the applieation of law than ean be hoped for in arbitration whieh is influeneed by the prejudiees of men and the expedieney of polities.

We can do vastly more to perfeet it in the eapaeity of an adherent than in an aloofness in whieh we arrogate to ourselves a right to say to the world, "We dietate, but never eomply." I would yield none of our rights; none of our nationality, but would gladly give of our influenee and our eo-operation to move forward and upward toward that world peace and that reign of justiee whieh is infinitely more seeure in the rule of national honor than in national or international foree.

I have indulged the dream, nay, I have indulged the justified hope, that out of the encouraged and sustained Court might eome the fulfillment of our larger aspirations. In the proof of its utility and a spirit of eoncord among nations might eome that voluntary eonferenee of nations out of whieh could be expeeted a elarified and codified international law to further assure peaee under the law, and bring nations that understanding whieh is ever the first and the best guarantor of peaee.

I would not have it thought that I hold this question paramount to all others eonfronting our Government. I do not hold it a menaee to the unity of any politieal party. It is not to be elassed as a party question, but if any party, repeatedly advocating a world eourt, is to be rended by the suggestion of an effort to perform in aceordanee with its pledges, it needs a new appraisal of its assets.

Our problems at home invariably call for our first eonsideration. Our own house must be assured before we can be large eontributors to world progress or measurably helpful to humanity. I have little patienee with the contention of those who believe that large eommercial advantages will attend our larger assumption of world responsibilities. Nations are not engaged in bartering their trade advantages for larger fellowships. We do not do it ourselves, and we need not ask what we do not give. Commeree is the very lifeblood of every people's existenee, and a nation's commercial opportunities are valued little less than the seeurity of its eitizenship.

Must Practice Justice Daily

A restored Europe, with less consumption in conflict and more production and consumption in hopeful peace and banished hate, would add to the volume of world commerce. We would gladly acclaim such a restoration. Our influence and our helpfulness are ready whenever they will avail, but we can not intrude where we ourselves would resist intrusion.

Our position commercially is gaining in strength, because we are free from political entanglements and can be charged with no selfish designs. In the making of new pacts and the remaking of old, which is ever going on, we ask no more and accept no less than the equal opportunity which we are ever ready to grant to others, and the position is absolutely unassailable. The nation which grants justice may confidently ask it, and the world—social, political or commercial—which would promote justice through association or judgment of its court must practice justice in its daily transactions.[1]

One more thought, little expected on this occasion, I am sure, but particularly appropriate before a highly representative body of the American press. I know from experience how a newspaper man confidently prints opinions on public affairs. He has a marked advantage because he is seldom called upon to make good unless he happens to be elected President, and apparently no newspaper man was ever put to that test before. You have been saying a lot about the failure of Congress and the lack of team work between the Executive and the Congress, and many of you have deplored that there is not some strong man in the White House to make Congress do his bidding.

But a great change has taken place, vitally influencing the work of administrative and legislative fulfillment. This effectiveness is no longer influenced by war stress or Presidential personality. The great change has come about unawares, and as molders of public opinion you have ignored the fundamental reason. It is the change in our political system, the rule of the primaries, the drift toward pure democracy, and the growing impotence of political parties. We have got away from the representative system; we have reached a point where the lack of party loyalty has made

[1]A passage on the Administration's policy in respect to the merchant marine is here omitted.

party sponsorship in government less effective than it was. We have come to the time when a party platform is regarded by too many men in public life as even less important than a scrap of paper, and groups or *blocs* are turned to serve group interests, and many individuals serve their own, while contempt for party conference or caucus has sent party loyalty pretty much into the discard.

Loosened Party Ties

I believe in political parties. They were the essential agencies of the popular government which made us what we are. We were never perfect, but under our party system we wrought a development under representative democracy unmatched in all proclaimed liberty and attending human advancement. We achieved under the party system, where parties were committed to policies and party loyalty was a mark of honor and inspiration toward accomplishment. Nowadays, in many states, party adherence is flouted, loyalty is held to be contemptible and nominations for office are often influenced by voters enrolled under an opposing party banner, and platforms are sometimes the insincere utterances of expediency, influenced by nominees, rather than by advocates of principle.

Let no one misconstrue me. I am not advocating the abandonment of the primary which gives to every voter a voice in nominating men for office and determining party policy. I would carefully preserve and safeguard it against the old-time abuses which impelled its adoption, but I would make it an agent of indisputable party expression rather than a means of party confusion or destruction. I like the inculcation of loyalty, the pride of association, and the inspiration to accomplishment. I like the party government where purposes are reached in the reasoning of honest representation, and I like a party which is commissioned to govern, to strive in good conscience and all loyalty to keep the pledges which brought it popular approval.

Our drift to-day is toward pure democracy, and no pure democracy ever long survived. We talk solemnly and earnestly about preserving our world civilization. I have every confidence in its survival, but it may only be assured by human kind reaching the proper appraisal of the secure avenues of twenty centuries of

human progress. In our America we have the freest and the best press in the world. In its power of to-day only the press can sound the warning and reason to that conviction which will enable us to play our full part in the work of preservation.

Not Influenced by Bankers

(Extract from address before the American Society of Newspaper Editors, Washington, April 28, 1923)

If my observation as President of the United States has taught me any one thing, it is that there are too many men in the newspaper world who believe one thing and preach another. And that is not honest and that is not a contribution to becoming journalism.

How shall I say it? I sat in the Executive Offices and listened to an outstanding editor-publisher of the United States, who took my time for two hours, urging upon me the necessity of reduction in Federal taxes, notably excess profits and income and surtaxes, particularly pressing it with every word of argument that he could form, and his newspapers at that very hour were clamoring that the minions of capital were proposing to reduce the taxes on the wealth of this country. I would not give a rap for the conscience of a man like that. Think of the spectacle of a great publisher appealing to the President on the one hand for the very thing against which his papers were crying out.

I will give you another, probably not a reflex of selfish interests. It is a thing that suggests fairness of comment. If I made a definition of journalism I should pronounce journalism the profession that combines the publishing of news with an honest interpretation of it and becoming comments thereon. It is easy to be a respectable purveyor of news. That is not journalism. There are fine ethics in purveying news, but journalism covers the whole field, and an honest journalist is never unfair in stating the facts upon which he bases his comment.

I care nothing about editorial criticism directed against the individual. But I read within forty-eight hours a very earnest editorial wherein it was stated that the recent proposal of the Executive to the Senate that we adhere to the International Court of Justice was imposed upon the Executive by the influence and the cunning and design of the international bankers.

Well, there isn't a word of truth in it and I want to tell this to you because it will enlarge your vision and enable you to comment sometimes a little more satisfactorily.

I have been President something more than two years. I have yet to be asked for an audience or be requested an interview by a single international banker in America or elsewhere. And the only exchange of opinions between international bankers and the President of the United States has been at the request of the President, and it is fair to say that in the instances when they had been summoned they have said with just the same patriotic interest and devotion that you would say: "Mr. President, we are at your service in any way you wish to command us."

It is fair to tell you that when publishers and editors say with seeming sincerity and great emphasis that the Government is being led astray at the behest or design of the bankers, there isn't a grain of truth to justify the statement.

Great Advance of World Society

Letter of the President in Reply to Resolution of the Ohio Senate

The White House, March 6, 1923.

My Dear Governor Bloom:

In the press of business incident to the conclusion of the Congress session there comes to me to-day a copy of Senate resolution No. 44, Eighty-fifth General Assembly, State of Ohio, entitled "A resolution extending to President Harding the commendation of the Ohio Senate for his courageous stand in favor of an international court of justice." The resolution reads:

Whereas, President Harding has shown his courage and statesmanship by recommending that the United States be represented on the International Court of Justice, which is a continuance in permanent form of the old Hague Tribunal, and

Whereas, President Harding is entitled to great consideration because of the deliberation that he has displayed before giving his final approval to such step, therefore, be it

Resolved, by the Senate of the State of Ohio, That this body, on behalf of the people of the State of Ohio, hereby extend to President Harding its

commendation for the courage and wisdom he has shown and its best wishes for the favorable consummation of his statesmanlike proposal; be it further

Resolved, That a copy of this resolution be forwarded by the clerk of the Senate to the President of the United States and to the President of the Senate and Speaker of the House of Representatives.

I wish to tell you, and through your official capacity to inform the members of the Ohio Senate, of the especial satisfaction it has given me to receive this testimony of approval and of valued support from a body of which I was for a long time a member.

I feel that the adhesion of our country to the program and purposes of the Court of International Justice would represent a long and important step toward the assumption of those proper and entirely safe relationships to international affairs which should be borne by such a country as our own.

The recommendation that the United States adhere to the protocol under which this court has been created was not put forward without the most thorough and mature deliberation. Those who at this time are intrusted with the direction of the international relations of our country are firmly convinced that this move not only would represent the wise policy of our own people but would be an emphatic testimony of our purpose to encourage every feasible project for establishing the rule of law, as opposed to the rule of power, in this world. The whole story of civilization has been the story of the efforts to substitute the domination of justice under law for armed might.

I may say frankly that it is inconceivable to me that the American people, who have so long been devoted to this ideal, should refuse their adherence now to such a program as is represented by this tribunal. Nothing could be further from the purpose of the Administration than to suggest that our country surrender any of its control over its own fundamental rights and destinies. But we may be sure that differences will always arise among states and peoples, precisely as they have always arisen between individuals; and just as courts of justice and equity have been set up to determine issues as between individuals, so it is proper and logical that provision should be made for a like adjudication of those differences between nations and peoples which may properly be committed to such determination.

I look upon the establishment of the Court of International Justice, with the jurisdiction that has been given to it, as one of the greatest advances which world society has made toward conditions in which at least the rule of law may be substituted for the rule of force. It looks to the settlement of issues before they become dangerously acute; it contemplates the elimination of the causes of conflict and war. Feeling thus I can not but believe that our own country should be among the most devoted adherents of such a program.

In view of these sentiments, you will not doubt the sincerity with which I assure you how greatly I appreciate the testimony of approval which the Senate resolution has brought to me. Nor will you, I trust, omit to recognize the satisfaction with which I acknowledge the fact that the first testimonial which has come to me from any legislative body in the nation, comes from my own State of Ohio.

Please accept an expression of my best wishes for yourself and for the members of the Senate.

Most sincerely yours,

WARREN G. HARDING.

II. THE SECRETARY OF STATE AND THE CRITICS

Address on "The Permanent Court of International Justice" delivered before the American Society of International Law, Washington, April 27, 1923

It is my purpose to discuss in the simplest manner the proposal made by the President that the United States should participate, upon stated conditions, in the support of the Permanent Court of International Justice. In making this proposal, the President has been animated by the desire to promote world peace and stabilization; he has sought to give effect to a long cherished American aspiration and to pursue in the projected course the clear line of our traditional policy. With full appreciation of the intensity of feeling aroused by the controversy of recent years we can not fail to realize the importance of having the subject considered upon its merits, and the supreme need is an understanding of the facts which should remove uncertainty and quiet apprehension.

Let it first be noted exactly what the proposal is and what it is not. As the President has explicitly stated, it is proposed to support the Permanent Court of International Justice; it is not proposed to enter the League of Nations. Those who desire that by this method the United States shall become a member of the League are indulging vain hopes, and those who are alarmed at such a possibility are entertaining vain fears. The test is a clear one. If the Senate should approve the President's recommendation, the United States would still be outside the League. Acceptance of the President's proposal as to the International Court will not obtain for the United States a single right or subject it to a single obligation under the Covenant of the League.

These are the questions in which I assume the citizens of the United States are interested:

Is it a good thing to have an international court?

Why should we have a permanent court instead of temporary arbitral tribunals?

Is the Permanent Court of International Justice established on a sound basis?

Is there any good reason why the United States should not support it?

Why the Court Exists

First. Why should there be an international court? The manifest answer is that there are controversies between nations which should be decided by a court. There are controversies calling for the examination of facts and the application of principles of law. There are international contracts or treaties, now more numerous than ever, to be interpreted.

Recognizing the distinction between questions of a legal nature and questions of policy, there has emerged from the discussions of jurists an agreement defining justiciable disputes as those which relate to the interpretation of a treaty, to any question of international law, to the existence of facts which would constitute a breach of an international obligation or to the reparation to be made for such breaches. Other questions may be submitted for decision, but questions of the sort above described are manifestly of the same character as those which in all civilized countries are recognized as matters for determination by judicial tribunals whose impartial judgment affords the nearest human approach to absolute justice.

It is to the direct interest of the United States, with respect to the disposition of its own controversies, that the best practicable method of judicial settlement should be provided. We have rights and duties under international law. We are parties to treaties under which we have rights and obligations. As we can not be the final judge in our own cases, we need the best possible international tribunal to decide them. This is to the interest of every American citizen.

It is also to the interest of the United States that controversies between other nations to which the United States is not a party should be appropriately determined. Suppose a citizen of New York should say that he was interested only in having a judicial tribunal to determine controversies between states to which New York was a party, but that it made no difference to him what happened if the question was between Missouri and Kansas. Every citizen knows that it is in the interest of domestic peace that we should maintain a tribunal by which controversies arising between any two states can be determined. It is equally essential to world peace that controversies not our own should be peacefully and impartially determined wherever that is possible. As President

McKinley said, "It has been recognized as the leading feature of our foreign policy throughout our entire national history" that there should be "the adjustment of difficulties by judicial methods rather than by force of arms."

How are controversies between nations to be determined? If the nations are able to agree, the question does not arise. But what shall be done if they can not agree? Is their controversy to remain a festering sore? Ultimately, the alternative to peaceful settlement is the arbitrament of force. The only way to prevent war is to dispose of the causes of war, and the desire for peace must be supported by the institutions of peace.

Because a court may not be able to deal with every sort of controversy but only with controversies that are appropriate for a court to decide is no reason for dispensing with it. There is no immediate access to the millennium and a demand for the millennium will not prevent war. If the plain path of progress in dealing with those controversies which all countries recognize to be susceptible of settlement through judicial tribunals is not to be followed, then no progress is possible.

Defects of Arbitral Method

Second. Why should there be a permanent court instead of temporary arbitral tribunals?

The principle of judicial settlement of international disputes has been applied from early times through arbitrators. It is a method of great value, and I have no desire to underestimate it. We have been parties to more than 70 arbitrations and we have concluded a score of general arbitration conventions. Throughout its history the United States has consistently supported this sort of judicial process, but we have long recognized that it leaves much to be desired.

Arbitrators are selected to determine a particular controversy, and after the controversy has arisen. When the decision has been made the arbitral tribunal ceases to exist. There is unnecessary expense in the creation of a separate tribunal for every case and there is a regrettable loss in the experience of judges because of the lack of continuity in service. For the same reason, the development of the law suffers, as, instead of a series of decisions with

appropriate relation to each other by a permanent bench of judges, thus gradually establishing a body of law, there are sporadic utterances by temporary bodies disconnected with each other, acting under different conditions and having a widely different capacity.

There is a still more serious defect in this process. The arbitral tribunal is composed of those specially selected by the parties to the dispute. In legal matters of minor consequence, where national interest is relatively small, judicial standards are more readily maintained. But where the controversy is a serious one and success is highly important, the constitution of a tribunal after the controversy has arisen is not favorable to the selection of those who will act solely as impartial judges. And those members of the tribunal who are the separate choice of each party tend to become advocates rather than judges; if this is not always the case in fact, it is generally so in public estimation.

There need be no illusion as to this matter. The question finally comes to the selection of the umpire, or third or fifth arbitrator, as the case may be, who is likely to have the deciding vote. The smaller powers have the less difficulty in making such a choice. They have a range of selection that is generally satisfactory from the standpoint of national interest and they often are able to agree upon a tribunal composed of a single arbitrator. When there is a serious controversy between great powers, however, the choice of an umpire or third arbitrator is far from easy. National interests are far-reaching and a selection satisfactory to one power is for the same reason the subject of objection by the other. The difficulty has been vastly increased by the feelings engendered and the alignment of sympathies in the Great War. It has become a practice to provide that, in case of a failure of the parties, or of the arbitrators respectively selected by them, to agree upon an umpire or third arbitrator, he shall be selected by some designated power or powers. This is because some means of choice must be provided if the parties can not agree, but this course places with the designated power or powers the virtual control of the final constitution of the tribunal. The alternative is to have the selection determined by lot, and certainly this is not a satisfactory method.

Court Gives Improved Method

Even where the parties are able to agree upon the arbitrators there still remains the danger that considerations of political expediency will usurp the place of judicial standards. I would not disparage the motives of arbitrators or the importance of their service, but, as Mr. Root has well said, they too often "consider themselves as belonging to diplomacy rather than to jurisprudence; they measure their responsibility and their duty by the traditions, the sentiments and the sense of honorable obligation which has grown up in centuries of diplomatic intercourse, rather than by the traditions, the sentiments and the sense of honorable obligation which characterizes the judicial department of civilized nations." The process tends to the intrusion of political interest and to a solution by compromise instead of a proper judicial determination. Questions of right come to be determined as questions of policy.

The problem in the improvement of the judicial process in international relations is to secure immunity, so far as is humanly possible, from considerations of political interest and policy and to have the rights and obligations of nations determined upon their merits. The United States has taken the lead in the endeavor to secure this result by the most appropriate method, that is, by the establishment of a permanent international court.

Secretary Hay instructed the American delegates to the First Hague Conference in 1899 to present a plan for an international tribunal of a permanent character. While this project was not adopted the conference did make a decided improvement in existing practice by providing a code of arbitral procedure and an eligible list of arbitrators from which tribunals might be constituted for the determination of such controversies as the parties concerned might agree to submit to them. This was called a Permanent Court of Arbitration, but it was not in fact a permanent court; it was a panel of arbiters. This Government still cherished its ideal and hence, at the Second Hague Conference, our delegates were instructed by Secretary Root to bring about "a development of the Hague Tribunal into a permanent tribunal composed of judges who are judicial officers and nothing else, who are paid adequate salaries, who have no other occupation, and who will devote their entire time to the trial and decision of international causes by judicial methods and under a sense of judicial responsibility."

Mr. Choate, as the first delegate of the United States, in presenting to the conference the American plan for a permanent court, quoted the words of President Roosevelt that he hoped "to see the Hague court greatly increased in power and permanency and the judges, in particular, made permanent and given adequate salaries, so as to make it increasingly probable that in each case that may come before them they will decide between the nations, great or small, exactly as a judge within our own limits decides between the individuals, great or small, who come before him."

Hague Tribunal Inadequate

Mr. Choate observed that the work of the First Conference, noble and far-reaching as it was, had not proved entirely adequate to meet the progressive demands of the nations, and to draw to the Hague tribunal for decision any great part of the arbitrations that had been agreed upon; and that in the eight years of its existence only four cases had been submitted to it, and of the 60 judges, more or less, who were named as members of the court, at least two-thirds had not as yet been called upon for any service. He found the reasons to lie in undue expense; in the fact that there was "nothing permanent or continuous or connected in the sessions of the court"; that it had "thus far been a court only in name —a framework for the selection of referees for each particular case, never consisting of the same judges." "Let us then," said he, "seek to develop out of it a permanent court, which shall hold regular and continuous sessions, which shall consist of the same judges, which shall pay due heed to its own decisions, which shall speak with the authority of the united voice of the nations, and gradually build up a system of international law, definite and precise, which shall command the approval and regulate the conduct of the nations."

Mr. Choate added that the plan proposed by the American delegates did not "in the least depart from the voluntary character of the court already established. No nation can be compelled or constrained to come before it, but it will be open for all who desire to settle their differences by peaceful methods and to avoid the terrible consequences and chances of war." With solemn emphasis, disclaiming any pride of opinion as to any point or feature of the

American plan, he warned the great gathering of the representatives of all the nations that it "would be false to its trust and would deserve that the seal of condemnation should be set upon its work" if it did not "strain every nerve to bring about the establishment of some such great and permanent tribunal."

While the Second Hague Conference discussed a project and recommended a draft convention for the establishment of a permanent court, it was unable to find a satisfactory method of selecting the judges, and for this reason the project failed. Still the American delegates reported to their Government that in the proposed project the foundations of a permanent court had been broadly and firmly laid, and added— "a little time, a little patience, and the great work is accomplished." Echoing the same sentiment, President Roosevelt said in his next message to the Congress: "Substantial progress was also made toward the creation of a permanent judicial tribunal for the determination of international causes." He regarded the unsettled question as to the method of selecting judges as "plainly one which time and good temper will solve."

The establishment of a permanent court of international justice continued to be a cardinal feature of American policy.

How Permanent Court is Established

Third. Is the present Permanent Court of International Justice, to which the President's recommendation refers, established on a sound basis?

This question invites consideration of its organization; of the extent to which the court has the support of the nations; of the jurisdiction and standards of the court; and of the qualifications, tenure, method of selection and independence of the judges composing it.

The Permanent Court of International Justice has been established under what is called a statute, or constitution, which defines its organization, jurisdiction and procedure. In the preparation of this statute the Council of the League called to its aid an international committee of the most distinguished jurists, among whom was Mr. Root. This Advisory Committee of Jurists formulated a plan for a permanent court. The plan was considered and

amended in the Council and Assembly of the League, but its main structure was retained. While the amended plan was adopted by the Assembly of the League, it could not be put into effect by action of the League. In view of the scope of the plan, it was necessary to have a special international agreement on the part of the states which were willing to accept it. Accordingly a special protocol or agreement, with the statute of the court annexed, was drawn up and sent to the nations for approval. I understand that about 46 states have signed this special agreement, and of these about 34 states have already ratified it.

The Permanent Court is thus an establishment separate from the League, having a distinct legal status created by an independent organic act.

The jurisdiction of the court comprises all cases which the parties refer to it and all matters specially provided for in treaties and conventions in force.

Careful provision has been made to secure the independence of the court and to safeguard the appropriate discharge of its functions as a judicial body in accordance with accepted judicial standards. The statute of the court provides that it shall be composed "of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law." The court consists of fifteen members—eleven ordinary judges and four deputy judges. The eleven judges constitute the full court, but if they can not all be present the deputy judges may be called on. Nine constitute a quorum. The court is thus large enough to be appropriately representative and at the same time is not so large that it can not effectively transact its business.

The judges are elected for nine years and are eligible for reelection. Every judge before taking up his duties must make a solemn declaration in open court that he will exercise his powers impartially and conscientiously. The ordinary members of the court may not exercise any political or administrative function. This provision applies to the deputy judges during the time that they are performing their duties on the court. No judge can be removed by the League of Nations. A judge can not be dis-

missed unless, in the unanimous opinion of the other members of the court, he has ceased to fulfill the required conditions. This gives the judges absolute security in the impartial performance of their duties.

The statute provides that in deciding cases the court shall apply international conventions establishing rules expressly recognized by the contesting states; international custom, as evidence of a general practice accepted as law; the general principles of law recognized by civilized nations; and the judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law. All questions are decided by a majority of the judges present, and in the event of an equality of votes the president or his deputy, who are elected by the court itself, shall have a casting vote.

The judgment of the court is to be final and without appeal. It is expressly provided, however, that the decision of the court shall have no binding force except between the parties and in respect of the particular case decided.

League Solved Choosing of Judges

As already observed, the Hague project of 1907 for the establishment of a permanent court failed because it was found to be impossible to agree upon the method of selecting the judges. Manifestly, if the nations are to participate in maintaining an international court they must have suitable opportunity to participate in the election of those who compose it. Still, to have every nation represented upon such a court, or to have a selection of a permanent body of judges according to nationality, would be wholly impracticable, and insistence upon such a course would make impossible the establishment of a permanent court. The fundamental postulate of international law is the equality of states, but if this principle alone is observed and all states should join in the election of judges precisely upon the same footing, the small powers would have a great majority and would control the election. Even though the jurisdiction of the court was not compulsory, a court thus constituted would not be likely to enjoy the confidence of the great powers. At least, the fear of such an

arrangement has been until now an insuperable obstacle in establishing an international court.

This difficulty has been surmounted by providing that the two groups of powers in the Council and Assembly of the League shall act concurrently in the election of judges. The Council is a small body, of ten members, and the great powers—Great Britain, France, Italy and Japan—are permanent members, the others being nonpermanent members. The Assembly, on the other hand, embraces all the members of the League, 52 in number. The statute of the court provides that in electing the judges each of these bodies shall proceed independently, and the successful candidate must have a majority of the votes in each. The result is that the great powers are able to vote in a small group, of which they are permanent members, while all the smaller powers can vote in the other group, In this way the great powers and the smaller powers have a check upon each other, and it is as certain as anything human can be that their concurrent action will result in the election of impartial judges.

It should be noted that the Council and Assembly, in electing judges, do not act under the Covenant of the League of Nations. That Covenant, which determines the rights and obligations of members of the League, invests them with no authority whatever for such action. The election is held under the provisions of the statute of the court which rests, as I have said, upon a special international agreement. For this purpose, the Council and Assembly are electoral bodies which are utilized because they are groups of states, and through provision for their concurrent action the difficulty of finding a satisfactory basis of selection has been overcome.

This suggestion was brought forward by Mr. Root in the Advisory Committee of Jurists. Analogy was found in the plan which made possible our organic Union by providing for the representation of sovereign states in the Senate and of the people in the House of Representatives, and requiring in the enactment of laws the action of both groups. The methods of electing judges for the permanent court is thus a practical solution, and I think it may be said that without a solution of this sort which will enable great powers to have a check upon the smaller powers, and the latter to have a check upon the former, a permanent

court can not be established. We are generally in danger, in all efforts at progress, of being balked by an impractical idealism; in this case it is fortunate that a wise practicality has enabled the nations to attain the ideal of an impartial court.

Guaranty of Fair Elections

It should be added that candidates for election are nominated by national groups of arbitrators who are on the panel established by the Hague Convention and the election is made from the candidates presented by these groups, except that, in case of inability otherwise to agree, a joint conference of representatives of the Council and Assembly may unanimously present another name to each body. These national groups who thus have the privilege of nominating candidates for the Permanent Court of International Justice are selected by the Governments, respectively, under the Hague Convention as men of known competency in questions of international law and of the highest moral reputation. Before making these nominations, each national group is recommended by the statute of the court to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law. Thus the participating nations have the opportunity to submit the names of their leading jurists.

The plan gives every assurance against a successful attempt by any *bloc* to manipulate or control the elections. Any such attempt in the Assembly would meet with the greatest difficulty in view of its 52 members and their diverse interests, while any effort on the part of the Council to elect a judge partial to particular interests would be wrecked in the Assembly. It is wholly improbable that, acting in this way, the participating nations would be able to agree upon judges unless they were men of acknowledged merit with a public reputation affording the best possible guaranty of competence and impartiality.

The judges chosen through the concurrent action of these groups will be in all probability, as in the case of those already elected, men of mature years who have won high distinction. They are elected for nine years and will most probably be reelected if they give faithful service. This means that men of

exceptional experience and recognized fitness for these most important posts are chosen at a time of life, and for a term of service, which leaves them no motive but to devote the rest of their career to making efficient the administration of international justice to the full extent of their ability. If there is any practicable plan better safeguarding the essentials of an international court, it has never been suggested.

In considering the question of the relation of the court to the League, it must be remembered that if there were no League, you would still have to deal with the states composing the League. If you are to have a permanent court, these states should participate in establishing it and maintaining it and in electing its judges. The question would still remain—whether all these states in choosing judges should act in one body, or group, whatever you might call it, or not. If it were insisted that they should act in one body upon precisely the same footing, we should return to the old difficulty and get no court at all. If, on the other hand, you say that the participating states should act in two bodies or groups, so that the great powers may have a check upon smaller powers and the latter upon the former, then the question is, What should the second body or group be? Whatever you call it, it would be a body or group in which the great powers would presumably be permanent members.

League Does Not Control Court

The fundamental question is whether the League of Nations controls the court. To this there is a ready answer. The League does not control the court; that is an independent judicial body. The League is composed of states; they, of course, continue to exist as states. When the League acts, it acts under the Covenant which creates the rights and obligations pertaining to the League. But when these 52 members act in separate groups to elect judges, they are, as I have said, not acting under the Covenant, but are following a course of procedure defined by a special international agreement in order to secure the independent and impartial judicial body for which the world has been waiting.

There are certain other provisions of the statute of the court which have been adopted to meet obvious practical exigencies.

Only one national of a participant in the election can be chosen as a judge. Judges of the nationality of each contesting party retain their right to sit in the case before the court. If the court includes upon the bench a judge of the nationality of one of the parties only, the other party may select from among the deputy judges a judge of its nationality if there be one, or, if not, the party may choose a judge. If the court includes upon the bench no judge of the nationality of the contesting parties, each may choose a judge. If there are several parties in the same interest they are to be reckoned, for the purpose of these provisions, as one party only.

The court recognizes that it may be called upon by the Council or Assembly of the League for advisory opinions. This is a practice similar to that which has obtained in most of the states of New England from Colonial days. It now obtains in Massachusetts, New Hampshire, Maine, Rhode Island, Florida, Colorado and South Dakota. The Permanent Court of International Justice has adopted rules upon this subject so as to assimilate the process so far as possible to a judicial proceeding and especially so as to exclude any supposition that advisory opinions may be rendered in a diplomatic sense and without publicity. (See article by Judge John Bassett Moore on the Organization of the Permanent Court of International Justice, *Columbia Law Review*, Vol. XXII, No. 6, June, 1922, pages 11 and 12.)

The conclusion is that while the United States should have the right to participate in the election of judges if it is to support the Permanent Court, that court is established on a sound basis. It is already functioning. The judges have been elected—a most distinguished American jurist being one of them—and they are as representative a body of independent and qualified jurists as could be chosen.

Conditions of American Adhesion

Fourth. I come then to the final question: Is there any good reason why the United States should not support the Permanent Court? This support has been proposed by the President upon four explicit conditions. These conditions are:

I. That such adhesion shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the Covenant of the League of Nations constituting Part I of the treaty of Versailles.

II. That the United States shall be permitted to participate through representatives designated for the purpose and upon an equality with the other states members, respectively, of the Council and Assembly of the League of Nations in any and all proceedings of either the Council or the Assembly for the election of judges or deputy judges of the Permanent Court of International Justice, or for the filling of vacancies.

III. That the United States will pay a fair share of the expenses of the court as determined and appropriated from time to time by the Congress of the United States.

IV. That the statute for the Permanent Court of International Justice adjoined to the protocol shall not be amended without the consent of the United States.

The acceptance of these conditions will establish that the support of the court will not involve entry by the United States into the League of Nations; the participation of the United States in the election of judges; the bearing by the United States of its proper share of the expenses of the court; and, finally, a safeguard against any change in the statute of the court without the assent of the United States.

What, then, are the objections to support of the court upon this basis?

(1) It is objected that it is not a world court. But in what sense is it not a world court? Is reference made to the number of nations which support it? The answer is, as I have already said, that about 46 nations have already signed the protocol, and if the United States adheres, there is every reason to suppose that participation by the other nations will be brought about. This should be our aim. It is not too much to say that there will be no world court if this court can not be made one, and whether or not it is to be in the fullest sense a world court depends upon our own action.

Suppose we should now undertake to establish another world court? What should we do? We could not establish it by ourselves; we should have to prepare a plan and submit it to the other nations. We should need the approval of the nations who have already approved the present plan.

What differences should we propose, so far as the structure of the court is concerned? With respect to the choice of judges, would we endeavor to have a practicable plan or one that had been demonstrated to be impracticable? Should we insist that all nations be represented on the court by their nationals, or that all nations, great and small, should act together in the choice of judges upon precisely the same footing and without any division into groups which could form a check upon each other? If so, we should have a plan which would most probably fail of acceptance, and at the same time would not safeguard the interests of the United States nearly as well as the existing plan.

Should we recommend concurrent action by groups of nations, in order to have a practical arrangement for selecting judges? If so, what groups should we propose, and how would they differ essentially from the present electoral bodies? The more the matter is examined, the more clearly I think it will appear that the suggested changes would be purely formal, and not at all vital to our interests, or of a character which would disclose any just reason for refusing support to the existing court and for entering upon the difficult, if not vain, endeavor of establishing another judicial institution.

An Independent Judicial Body

(2) Another objection is that the court has been established through the action of the League of Nations. This is not an entirely accurate statement, for the action of the League could not have established the court. It was necessary to have a special agreement signed or adhered to by the nations which support the court, and the court rests upon that agreement. The substantial point, however, is not the source of the plan but its character. Any nation, or any group of nations, might have suggested the plan and it might be none the worse or none the better for that. The question still remains—What is the court that has thus been established, and is it in its essential attributes worthy of support?

This question I have examined, and I think it is demonstrable that the court is an independent judicial body with appropriate judicial functions and abundant safeguards for their proper discharge. It is not a servant of the League; and its decisions are not supervised or controlled by the League.

It is said that the salaries and expenses, or budget of the court, are fixed by the Assembly of the League upon the proposal of the Council. But the action of the Assembly is the action of the 52 members composing the Assembly and the recommendation of the Council is the recommendation of the states composing the Council, in each case the action being taken under the statute of the court. If the nations are to support a court, they must of course have some practical means of dealing with the budget. Under the present plan, by which both these groups act, there is abundant protection against extravagance. We properly reserve the right of Congress to determine by its appropriation the amount which the United States shall pay as its share. I find nothing which can be regarded as inimical to the interests of the United States in the provisions as to procedure.

(3) But it is said that support of the court, although it manifestly does not involve entrance into the League or the assumption of any obligation under the Covenant of the League, constitutes an entanglement. But in what do we become entangled? Are we to abandon the effort to dispose of international controversies by judicial settlement, which has been a feature of American policy since the foundation of the Government? We can not have an ordinary arbitration unless we have an international agreement and an international tribunal for the purpose of the arbitration. We have never considered this to be an entanglement. We have manifested our desire for such judicial settlements by numerous treaties and special conventions.

Certainly we do not object that the disputes of others should be settled peacefully by similar methods. Then, as I have shown, the establishment of a permanent court has been an American policy because we have desired this essential improvement in judicial process in international relations. Political platforms have treated this as an American policy, and not as a forbidden entanglement. If you are to treat participation in a permanent court of international justice as an entanglement foreign to our institutions, you must rewrite American history. If you are not, then the question is as to this particular permanent court, and we return to the consideration of its organization and functions, and these justify the conclusion that it is an independent judicial body of the highest character and deserves our confidence.

Jurisdiction is Voluntary

(4) Again, it is objected that a world court should have compulsory jurisdiction and that the jurisdiction of the Permanent Court of International Justice is not compulsory. It may be noted that provision is made in the statute of the court for the acceptance by states, through a special agreement, of compulsory jurisdiction of legal disputes as defined in the statute. I understand that of the 46 states that have signed the protocol about 15 have ratified this optional clause for compulsory jurisdiction, but among the majority of the states which have not assented to the optional clause are Great Britain, France, Italy and Japan. It is apparent that the greater nations are not yet ready to accept compulsory jurisdiction even of the limited class of questions above described. Certainly it does not appear that the United States is ready to accept it.

The American plan for a permanent court, which was submitted to the Second Hague Conference, was, as Mr. Choate pointed out, for a jurisdiction of a voluntary character. The Senate repeatedly, from the days of President Cleveland, has refused to sanction an arbitration treaty providing for compulsory arbitration. It has been required that, even under our general arbitration treaties relating to legal disputes, there should be a limitation relating to questions which affect the vital interests, the independence, or the honor of the two contracting states, and the Senate has insisted that a special agreement for each particular arbitration should be submitted for its assent.

Shall we postpone the plan for a world court because we can not have compulsory jurisdiction? Can we not make substantial progress in the judicial process by the creating of a tribunal which in the highest degree will command confidence and to which the nations may present their cases for the most impartial and expert consideration that is obtainable? Why should impossibilities be demanded if we are really interested in judicial settlement? It is said that the court is substantially an arbitral tribunal because of the absence of compulsory jurisdiction. But this is not an effective argument, for even if the court could be so described, the question would remain: Why should we not have the great advantage of this improvement in the judicial mechanism? This brings us back to the question whether or not we desire a permanent court with the continuous service of judges with appropriate

judicial standards instead of temporary arbitral tribunals—a question to the affirmative answer of which we have long been committed.

(5) Further, it is objected that no provision is made for the enforcement of the decisions of the court. There are those who desire to see an international armed force to compel the carrying out of decisions. Those who make this demand generally assume that there will be substantial unity among those furnishing the armed force so that it can be used. But when there is such international unity the power of public opinion is at its maximum and there is the least need for force, while in the absence of such unity the armed force is likely to remain unused.

The truth is that the decisions of the court will have the most solemn sanction that it is practicable to obtain. When nations agree to submit a dispute to a tribunal and to abide by the decision, its observance is a point of international honor of the highest sort. You can really have no better sanction than this and the obligation is one which will be all the more keenly felt when the decision is not simply that of a temporary arbitral tribunal but of a permanent court supported by practically all the nations of the world. If you desire to improve the authority of judicial determinations of international disputes, you can best effect the object by improving the reputation for impartiality, and for disinterested judicial consideration, of the tribunal that decides them.

(6) An objection of a different character is that the United States should unconditionally support the court, and therefore, apparently, that the suggested conditions should be withdrawn. This objection simply means that the United States should enter the League of Nations, as the objection assumes, in accordance with the fact that the proposed support of the court does not involve entry into the League.

But why, in supporting an institution which embodies a cherished ideal of the American people, should we revive the controversy over the League? Why should we not support the court as a judicial body? In giving this support, however, it is important that we should reserve the right to participate in the election of judges, that we should protect ourselves against amendment of the statute without our consent, and that we should provide

for the determination by Congress of the amount to be paid as our share of the expenses. The stipulated conditions are appropriate to the purpose.

Answers Six-Vote Objection

(7) Another objection is that the British Empire has six votes in the Assembly of the League in the election of judges, because the Dominions and other constituent parts of the Empire are members of the Assembly. It must be remembered, however, that there are 52 votes in the Assembly. The admission to membership of these parts of the British Empire has been a recognition of the aspiration of the peoples composing them, and this has not been found an insuperable obstacle to the support of the court by other powers. And it would be difficult to find a sound reason for objection on the part of the United States to this increase on natural grounds in the voting strength of the peoples who have been developed under the influence of Anglo-Saxon jurisprudence.

Moreover, under the proposed condition the United States will not only participate in the election by the Assembly, but also in the election by the Council, and in the Council the British Empire has but one vote. We are far better protected by this arrangement than by one which would have all states vote together on exactly the same footing and where the smallest nation would cast the same vote as the United States. The arrangement for our participation in the voting for the judges by the Council is really a stronger protection to the interests of the United States than has hitherto been suggested in any plan for a permanent court. The question should also be considered in the light of the nature of the action that is involved. It is practically impossible, under the scheme that has been adopted, for the British Empire, or for any combination, to secure an election of judges in aid of a particular political interest. Such an effort would die stillborn, because of the necessity for a concurrent choice by both groups of nations in the manner that has been devised.

Finally, it is hardly necessary to say that I am in entire sympathy with efforts to codify international law and to provide conventions for its improvement. I believe in conferences for that purpose. We have already made some progress in this direction

through the recent Commission of Jurists which sat at The Hague to suggest modifications in the laws of war which are made necessary by new agencies of warfare—a commission established under a resolution adopted at the Conference on Limitation of Armament. However, the process of codifying, clarifying and improving international law is necessarily a slow one, and if we wait for a satisfactory body of law before we have a permanent court a generation will pass before it is established. Meanwhile let us supply appropriate means for the application of the law we have. The two projects are not inconsistent; the one can exist along with the other.

But we have an acute world need. We shall make no progress toward the prevention of war if we adopt a perfectionist policy. Whatever else we should have, we need at once a permanent court of international justice. No plan to promote peace can dispense with it. Why should we wait for the solution of difficult problems of policy and the settlement of the most acute international controversies of a political nature before we meet the obvious necessity of providing for the appropriate disposition of those controversies with which an international court is competent to deal?

Any successful effort to settle controversies aids in the cultivation of good will and the desire for the adjustments of amity. The support of a permanent court as an institution of peace will be a powerful influence in the development of the will to peace. I hope that the United States, in deference to its own interests and in justice to its ideals, will do its part.

III. ELIHU ROOT AND THE COURT

Address as President of the American Society of International Law, Washington, April 26, 1923

The Permanent Court of International Justice, now in operation at The Hague, was established by a protocol signed on the 16th of December, 1920, and ratified by substantially all the civilized nations, great and small, with the exception of the United States, Germany, Russia and Mexico. The court is composed of eleven judges and four deputy judges, to act in case of illness or absence. They are all required to be "independent judges, elected regardless of their nationality, from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or who are jurisconsults of recognized competence in international law," and it is required that they shall represent the main forms of civilization and the principal legal systems of the world. They are elected for terms of nine years and are eligible to re-election. They receive fixed salaries and are prohibited from exercising any political or administrative function while in office. The court elects its own president, appoints its own clerk and makes its own rules. A session of the court is required to be held every year, and, unless otherwise provided by the rules of the court, the session begins on the 15th of June and continues until the calendar of cases is cleared. A quorum of nine judges is required for hearing and decision, except in certain special cases in which summary procedure is provided for. Before entering upon the discharge of his duties, each judge is required to make a solemn declaration in open court that he will exercise his powers impartially and conscientiously.

The court is open to all states and only to states. The general jurisdiction of the court is of three classes: First, all cases which the parties submit to it; second, all cases provided for in treaties and conventions; third, as to all states which shall have signed a special clause contained in the protocol accepting compulsory jurisdiction, all cases whatever between such states concerning (*a*) interpretation of a treaty; (*b*) any question of international law; (*c*) the existence of any fact which, if established, would constitute a breach of an international obligation; (*d*) the nature or extent of

reparation to be made for the breach of an international obligation; (*e*) the interpretation of a judgment rendered by the court. The court has certain special jurisdiction over disputes in labor cases.

The court is required to apply (1) international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; (2) international custom as evidence of a general practice accepted as law; (3) the general principles of law recognized by civilized nations; (4) judicial decisions (without giving them binding force); and the teaching of the most highly qualified publicists of the various nations as subsidiary means for the determination of rules of law.

This court does not supersede but is in addition to the old so-called Permanent Court of Arbitration at The Hague, from which it differs widely.

Old "Court" Not a Court

The old Court of Arbitration was not, properly speaking, a court. It was merely a panel of persons available to act as judges, made up by appointments of not exceeding four persons by each of the states taking part, and a clerk's office to carry on the administrative business made necessary whenever an arbitral tribunal was selected from this panel.

Experience has shown that this plan of constituting the court specially for the purpose of each particular controversy was not a very good way for getting legal rights decided, because, as a general rule, arbitrators selected by one side or the other in a particular controversy tend to represent that side of the controversy, with the result that there is negotiation and compromise rather than judicial decision. Doubtless some controversies which involve fact and feeling rather than fact and law can most usefully be settled in that way, and for that reason the old so-called Court of Arbitration has been left and the new court, which is a real court, has been established, composed of permanent judges, whose selection has no relation whatever to any particular controversy, whose number is so great as to make their body superior to any special local influence, who are conspicuous and distinguished figures in the international world, who are members of a great institution, the high reputation of which they must be solicitous to preserve,

and who must necessarily year by year acquire increased competency for the discharge of their judicial duties.

This is substantially the same kind of change which was made by the United States in 1787 when they abandoned the plan provided in the 9th Article of the old Articles of Confederation for the appointment of a special commission to hear and determine each controversy between states, and vested in one Supreme Court the judicial power to determine controversies between two or more states, under the third article of our present Constitution.

The proposal that the United States shall adhere to the protocol of December 16, 1920, which established the Permanent Court of International Justice, is quite distinct from the question whether the United States should become a member of the League of Nations, so much discussed during the years 1919 and 1920. The two different projects approach the great problem of preserving peace from different angles and by different methods. They differ radically in their nature and in their effects.

The organization of national representatives in an Assembly and Council provided for by the League of Nations Covenant was in substance provision for a special form of diplomatic procedure, adapted like all diplomatic procedure to deal with questions of national policy. The Assembly and Council are not composed of natural persons. They are composed of states represented by natural persons. It is not M. Bourgeois or Lord Balfour who speaks and votes in the Council. It is the Republic of France and the British Empire speaking and voting through M. Bourgeois and Lord Balfour. It is not Señor Agustin Edwards or Lord Robert Cecil who speaks and votes in the Assembly of the League. It is Chile and South Africa speaking and voting through them. The honorable obligation of each individual taking part in the proceedings of the Council and Assembly is the obligation of a diplomatic agent toward his own country. There is none of that special personal obligation which constrains the conscience of a judge upon his oath and his self-respect to decide any controversy in accordance with law and the facts, without subordination to political power.

All diplomatic procedure has the purpose of avoiding or preventing conflict. The methods are varied according to the requirements of the particular situation. An ambassador may call upon

a foreign minister and discuss a question with him. Foreign offices may carry on extended correspondence, arguing the same matter of difference. The good offices or the mediation of a friendly power may come in to bring the parties together. Identic circular notes may be sent out to secure an expression of agreement on the part of several powers. Conferences may be called of a few powers specially interested in some particular controversy, such as the Conference of Ambassadors in London, by which Sir Edward Grey maintained peace after the Balkan wars; such as the Naval Conference in London in 1908 and the Conference for the Limitation of Armaments in Washington in 1921. More general conferences may be called to deal with many subjects of common interest, such as the Hague conferences, the Red Cross conferences. The meetings of the Assembly and Council of the League of Nations are diplomatic conferences held at stated times and places. All the conclusions reached are reached by diplomatic agreement, just as truly as if those conclusions resulted from diplomatic correspondence or from conversation in a foreign office, or from a conference *ad hoc*, like the arms conference.

To these stated conferences is furnished a secretariat rather more elaborately equipped to carry into effect conclusions that may be agreed upon than the ordinary secretariat which every international conference has to have.

The Court of International Justice, on the other hand, completely excludes the essential characteristics of the League organization and procedure.

Judges Do Not Represent States

No diplomatic agreement is sought or attained. No member of the court represents or is at liberty to represent any state whatever.

Their duty is not to deal with policies or agreements, but to decide questions of fact and law in cases brought before them. Each judge's obligation is not to represent his country or any country, not to execute the orders of any foreign office, not to reflect the policy of any government, but upon his own conscience to hear and decide upon the evidence and the law in accordance with his own personal judgment.

The court is absolutely independent and is subject to no control by the League of Nations or by any other political authority.

It is plain that there is a line of cleavage between this court on the one hand and the political organization of the League on the other, which is the same as the line drawn by the Supreme Court of the United States between its own functions in dealing with judicial questions and the functions of the legislative and executive branches of our Government in dealing with political questions. This is not arbitrary, but exists in the nature of things, because it is plain that states acting in the League organization could not really decide judicial questions, while a court organized for the decision of such questions could not decide questions of governmental policy without abandoning its function of a court and assuming the entirely different function of a political agent.

There is sometimes a failure to appreciate the different offices of these two distinct methods of international procedure.

The diplomatic method is the necessary method of dealing with immediate exigencies and dangerous crises in affairs. Under such circumstances there is no other way to prevent disaster. Argument and persuasion and explanation, the removal of misapprehensions, the suggestion of obstacles and advantages, conciliation, concession, stipulations for the future, and the still more serious considerations to which diplomacy may finally resort—all these are employed to deal with immediate and acute situations. The slow processes of judicial procedure are not adapted to deal with such exigencies.

It should be observed, however, that these diplomatic processes have been going on from the beginning of history, and especially for the last three centuries, since the Thirty Years' War, and each diplomatic effort begins just where similar efforts began centuries ago. Maps change, trade changes, dominant powers change, means of attack and defense and of benefit and injury change; but the nature of man does not change and the appeal of the expediency of the moment to human passions and desires is always the same. The achievements of diplomacy dealing with successive international crises are reprieves of civilization, not steps in the progress of civilization.

On the other hand, consider the entirely different office of an international court. The least of the benefits which such an

institution can furnish is in its decision of particular cases. That is frequently of high importance because, however unimportant in itself the question decided may appear to be, such questions are frequently the origins of general ill-feeling. They frequently halt the whole progress of diplomatic effort toward a good understanding. One of the curious human features of international affairs is that two peoples will accept without irritation an impartial decision upon a question between their two countries when if the foreign minister of either country had agreed to the same thing voluntarily he would have been hung in effigy.

Importance of Judicial Decision

You will recall that in 1898 a Joint High Commission was created by Great Britain and the United States for the purpose of disposing of a great number of pending controversies between the United States and Canada. The Lord Chancellor of England, Lord Herschell, came over to head the British section and Vice-President Fairbanks headed the American section. They met alternately in Ottawa and Washington; they appointed committees; they discussed the numerous questions at issue, and they separated without being able to settle anything whatever, because neither party could yield upon the Alaskan boundary question. The Alaskan boundary question was determined by the decision of the tribunal which sat in London in 1903, and thereupon progress toward settlement of controversies began all along the line, and before the World War came, in 1914, every question had been settled; so that no controversies remained on the diplomatic calendar to hinder alliance between all the English-speaking peoples. It frequently happens in this way that a judicial question upon which neither side can yield without a sense of humiliation is like a key log of a jam, the removal of which sets free the whole mass to follow its natural course down the stream. In such a case it may be of vast importance to both countries to have a question decided, while it may be quite unimportant which way it is decided.

More important is the part that the existence of adequate machinery for judicial settlement plays as a necessary feature of any process toward the outlawry of war. No one can expect a

world free from controversy. Disputes will constantly arise so long as human nature remains the same. They must be settled in some way. If not settled peaceably, then from time to time, when they are important and exciting, they will lead to force. That can not be prevented by mere negatives. The only practical recourse is by furnishing some adequate means of peaceable settlement; and, throughout the entire field of disputes arising upon claims of right, human experience has devised no means of peaceable settlement so effectual as the opportunity to secure the judgment of a competent and upright court of justice.

More important also is the value of an international court as an agency in the development of international law, for there lies the path of progress. It is only by advance in the establishment of law that the peace-loving peoples of the world can move forward toward the permanent establishment of the rule of public right in lieu of impulse and selfishness and brutal force.

Consider the underlying conditions which make it difficult to maintain peace. Chief among these are the essential differences of temperament and character, and traditions and preconceived ideas, and inherited modes of thought and feeling and action, and differing conceptions of what is just and right and permissible in conduct. Out of these arise inevitable misunderstandings and opposing views of national rights and national duties. In this field interested motives find fertile soil for the cultivation of prejudice and passion and the determination of patriotism on both sides to insist on one country's supposed rights at all hazards, while one side or the other is surely mistaken. This process goes on among civilized peoples, the vast majority of whom on both sides are sincerely in favor of peace.

Renders Public Opinion Effective

The one force which civilization possesses capable of checking this process toward conflict is this public opinion in favor of peace. How can that opinion be made effective? Why has it not been more effective in the past? The plain answer is that public opinion, when called upon to address itself to the living questions of the moment, is uninformed. It is ill-informed. It is frequently misinformed. It is differently informed in different countries,

and if required to argue out in the heat of controversy, from first principles, the right and wrong of national action, or proposed action, it becomes confused and ineffective; it has no adequate force of crystallization. The plain remedy is to secure general agreement upon rules of right conduct between nations upon which the public of all civilized countries may base their judgment, so that universal opinion may be clear and potent. The rules must conform to the common conceptions of morality, but they must not be mere moral truths. They must translate moral truths into terms of action. They must be definite and certain, to be effective tests of conduct. Their formulation and acceptance must inevitably be a long, slow process; but all advances in civilization have been by long, slow processes. It has been by such a process that the law of nations in its present extent has been built up. For centuries governments have been gradually discussing with each other the ways in which nations ought to act under such and such conditions, and rescuing from the great mass of temperamental differences certain matters of international relation upon which all nations could agree, and formulating rules which all nations could accept; and thus very gradually the field of difference has been narrowing and the field of agreement has been enlarging. These rules constitute the law of nations.

We sometimes hear the remark that the World War has destroyed international law. The future would be dark indeed if that were so. But it is not so. It is true that many of the rules of international law designed to regulate the conduct of war were grossly violated. Upon this two observations suggest themselves: One is that the whole field of international law to regulate the relations of nations in peace is unaffected. The other is that you can not destroy a law by breaking it. The whole community of individuals or of nations can destroy a law by acquiescing in the breaking of it, but no lawbreaker can destroy the law he breaks. There has certainly been no acquiescence in the wholesale violation by Germany of the law relating to war. On the contrary, it was the testing of Germany's conduct by these rules of international law which led the civilized world outside of the Central Powers to condemn Germany and was the chief element in forming the clear and definite public opinion which ranged

against her the forces that led to her final defeat; and the essential basis of the reparations by the infliction of which Germany is being punished now is the German violations of law in beginning and carrying on the war by land and sea. The public opinion of the civilized world found in the clear rules of the law which it had established a certain basis for its judgment, and it has re-asserted and re-enthroned the law which was apparently overwhelmed for the moment.

Democracies can not live without law. Autocrats can issue commands, but democracies must govern themselves by public opinion, and there can be no effective public opinion without established rules of conduct. A world of democracies must be governed by public opinion in support of law or it will be a world of anarchy.

In this modern world of rapid change, the development of international law by the old processes of diplomatic correspondence has not kept pace with the changing conditions calling for the application of law. Within our lifetime two new methods of expediting the process have been devised. The first is the holding of conferences for the purpose of discussing and agreeing upon additional and more effective rules—a process which ought to be resumed without any avoidable delay. The other is the establishment of this permanent court to pass upon questions of international law in dispute between nations and which, according to all human experience with courts of justice, will inevitably develop the law as it decides cases under the law.

Dangerous as analogies are, when I hear expressions of little esteem for the slow processes of international law because they do not prevent excited peoples from the use of force, I can not help thinking of the relation between curative and preventive medicine. When a patient is laid low by an acute disease, it does not help him for the physician to talk about sanitary science. Medicine and surgery must deal with that case as best they can at the moment. Nevertheless, if future cases of disease are to be prevented, if the community is to be more healthful, if the death rate is to be lower, if there is to be less tuberculosis, less yellow fever, less typhoid, rules of sanitary conduct of life must be established and understood and followed and enforced by public opinion. The place to begin is in the beginning, before disease has taken possession and become acute.

Self-Respect Enjoins Participation

The question now presented is whether the United States shall take part with the other civilized nations in supporting the International Court of Justice, which the United States has so long urged those same nations to join her in creating.

Manifestly, the presumption is in favor of the United States supporting the court. Both self-respect and self-interest require that the United States should stand by its own policy. We can not decently urge the creation of such a court as this upon the rest of the world through a long series of years and then repudiate the court when they consent to it, unless we offer some adequate reason. Is there any such reason?

Several suggestions have been made:

(1) It is said that the court originated in the League of Nations and should therefore be avoided.

The court did not originate in the League of Nations. It originated in the proposal of the United States to the First Hague Conference of 1899. Upon the urgency of the United States in the Hague Conference of 1907, the project was worked out and agreed upon in its essential features, except the method of selecting the judges, and that conference adopted a resolution in these words:

> The conference recommends to the signatory powers the adoption of the annexed draft convention for the creation of a court of arbitral justice and the bringing it into force as soon as an agreement has been reached respecting the selection of the judges and the constitution of the court.

The difficulty which prevented a complete agreement upon the court in 1907 was very simple but very stubborn. The community of nations which was represented in the Second Hague Conference consisted of a small number of large and powerful states and a large number of small and physically weak states. Upon any question to be determined by a vote of states, the small states would have complete control. Yet the large states had greater population, greater interests to be affected by the court, and, as compared with the majority of the small states, greater experience and familiarity with the kind of questions the court would have to pass upon. The small states were jealous of their equal sovereign rights and would not concede superior rights of

sovereignty to any other state, however great and powerful, and so they insisted upon each sovereign state having one equal vote in the selection of judges to make up the court. On the other hand, the great states were wholly unwilling to submit themselves to the control of the small states. That was the difficulty upon which the court project stuck fast in the Conference of 1907 and the solution of which was referred to the governments of the nations by the conference. During most of the time between the Conference of 1907 and the World War the Government of the United States was engaged in trying to work out with the other principal powers some solution of this question. Several plans were proposed and draft treaties were made and passed around from foreign office to foreign office without reaching any satisfactory conclusion up to the time of the war. During all this time America was urging the court upon the other powers under the adminstration of Mr. Taft, as it had urged it under the administrations of Mr. Roosevelt and of Mr. McKinley.

How Court Came into Being

At the close of the war, when the League of Nations came to be made, no power either to act as a court or to create a court was vested in the League, but the duty of finding a way of solving this old unsettled question, which already rested upon the foreign offices of the different powers, was imposed upon the Council of the League by the 14th Article of the Covenant, which provided:

> The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice.

The Council was charged to submit a plan to the several states just as the projects of the Hague conventions were submitted to the several states and became effective only through the several treaty ratifications.

For the purpose of performing this duty of devising a plan to be submitted, the Council invited ten gentlemen from different parts of the world, supposed to be specially familiar with the subject, to meet as a commission to discuss and recommend a plan. In this commission there was one member from each of the following countries: France, Great Britain, Italy, Japan, Belgium,

Brazil, Holland, Norway, Spain and the United States. Nobody represented any country. They were all there purely as experts, as if physicians were called together to consult about a case or engineers to consult about a bridge.

This commission found and recommended what seemed to them to be a reasonable solution of the critical question. The solution was that as there were already in existence two organized bodies, one of which (viz., the Assembly of the League of Nations) was dominated by the smaller powers, and the other of which (viz., the Council of the League of Nations) was dominated by the larger powers, the judges of the court should be elected by the separate concurrent votes of these two bodies, a majority vote in each being necessary to an election, and that this election should be from an eligible list of persons nominated by the members of the old Permanent Court of Arbitration at The Hague, from each country represented in that organization. In this way each class of nations—the small class of large nations and the larger class of small nations—would have power to prevent unjust or unreasonable conduct by the other class.

This plan, with the details of which I will not detain you, was approved and was submitted to all the states who were Members of the League of Nations, and was accepted by those states by signing and ratifying the protocol of December 16, 1920. After the ratification of the protocol by the greater part of the civilized nations, an election was held, and the plan worked admirably and resulted in the selection of a court of the highest quality, both of character and ability, which has organized and entered upon the discharge of its duties and has already disposed of a number of important and difficult questions.

A World, Not a League, Court

It should be observed that the protocol or treaty constituting this court makes it a world court and not a League court; and especially it should be noted (1) that all states, including the United States, are made competent suitors before the court; (2) that the citizens of all states, including the United States, are made eligible for election to be judges of the court, as the election and membership of a distinguished American indicates; (3) that

all states which were members of the old Permanent Court of Arbitration at The Hague, including the United States, are entitled to make nominations which shall form a part of the eligible list from which judges are to be elected. In the summer of 1921 the American group of members of the old Hague Court of Arbitration were formally invited, pursuant to the protocol of December, 1920, to make nominations for judges. The American group did not deem it advisable to act officially upon that invitation at that time without some authoritative expression of the policy of the United States regarding the court. The members of the American group, however, other than Mr. Moore, did not hesitate to express their unanimous personal opinion that the wisest possible choice among the citizens of the United States for membership in the court would be Mr. Moore himself. (4) That in electing a judge the Members of the Assembly and of the Council of the League of Nations are not exercising any power vested in them by the League or by the Covenant. They are executing a special power vested in them by the treaty which creates the court and which authorizes them to act as special electoral bodies under the authority of the treaty. (5) That the protocol contains an express invitation to states not Members of the League, including the United States, to become parties to the treaty by adherence.

Only two things appear to remain to complete the full participation of the United States. One is that the United States shall undertake to pay its reasonable portion of the very moderate cost of maintaining the court. The other is that the United States shall have the right to be represented in the election of judges on the same footing as other powers. The President has proposed, in a message to the Senate, that by adherence to the protocol the United States shall agree to contribute to the expenses upon condition that it is accorded the right to share in the election.

(2) It is said that by adhering to the protocol the United States would in some way become entangled in the League of Nations, to which it does not wish to belong.

This apprehension can result only from a lack of clear understanding of what is proposed. The protocol recognizes two distinct classes of states—one, the states that are Members of the League of Nations, and the other, states that are not Members of the League of Nations. It is proposed that we adhere to the protocol

expressly as a state which is not a Member of the League of Nations. The only obligation we assume is to pay a sum of money toward the support of the court, the amount to be determined by our own Congress. The only right we acquire is to have a voice in the selection of judges. We may or we may not choose to litigate before the court. If we do choose to litigate, we establish no relation to anyone except the perfectly definite and well-understood relations of a litigant in any court.

(3) It is said that by reason of the fact that not only the British Empire, but the self-governing dominions of that empire, have votes in the Assembly of the League of Nations, Great Britain would have six votes to our one upon the election of judges.

Whatever cogency that argument may have had as bearing upon the question whether the United States should enter the League of Nations, in which the Assembly had important functions to discharge, it has no practical bearing upon the present question, for the reason that the vote in the Assembly in the election of judges is a matter of no practical concern to the United States and it is a matter of no practical advantage to the British Empire.

Allows Only One National Judge

By the express terms of the protocol of December 16, 1920, no power can have more than one of its nationals in the court. The selection of that one national from each of the five great powers is secured by their votes in the Council, sitting as an electoral body under the authority of the protocol. One of these will be the British Empire. Another will be the United States, each having one vote and only one vote. The difficult task of the Assembly is to distribute the remaining six judges and four deputy judges, ten in all, among between forty and fifty smaller or weaker powers. The very essence of the arrangement for a separate vote by the Assembly is that in that distribution there shall be no domination by the great powers, but the smaller powers shall have an opportunity to arrange the distribution among themselves. The United States has no business to interfere with it and ought not to wish to interfere. She could neither gain nor lose a member of the court by interfering. The British Empire could neither gain nor lose a member of the court by interfering. The

self-governing dominions of the British Empire can not gain a member of the court by their votes, because their citizens are all nationals of the British Empire, and there can be but one national of that empire in the court. The objection is purely theoretical and formal, affecting no real interest of the United States, not worthy of consideration in view of the tremendous issues which depend upon securing universal support of the civilized world for this great world court of justice, any more than the special relations which exist, or have existed, between the United States and Liberia, Haiti, Santo Domingo, Cuba, Nicaragua and Panama are entitled to consideration. The only real interest we have in the votes of the Assembly is our interest, in common with all good and decent people in the world, that the best possible judges shall be elected; and if Esthonia, Latvia, Lithuania, Albania, Poland, the Balkan States, the West Indies and Central America are willing that these highly civilized self-governing nations confederated with the United Kingdom in the British Empire should take part with them in making the selections in which the great powers have no concern, we ought to be content, just as France, and Italy and Japan are content, and be gratified, because we all know that it will make for the selection of a better court.

Compulsory Jurisdiction

(4) It is said that the jurisdiction of the court ought to be compulsory. To that I personally agree. The commission which formulated and reported the plan for the court recommended that jurisdiction should be compulsory; but some nations were unwilling to go to that extent.

No one can say with reasonable confidence that the United States would not have been one of those unwilling nations if the question had been put to it. The uniform attitude of the Senate upon a long series of arbitration treaties has been an attitude of refusal to give to any tribunal whatever compulsory jurisdiction affecting the interests of the United States upon any class of questions. At all events, some nations were unwilling to consent to compulsory jurisdiction. Was the project to be abandoned for that reason? That is not the way to make progress toward the adoption of any idea in this world of widely differing opinions and

prejudices. The way to make progress is to secure agreement just as far as possible, get it recorded, get it acted upon so far as it permits action, commit the whole world to it as irrevocably as possible, and then upon the next occasion start on the basis of that agreement and try for a further step; and when that has been accomplished, try for a still further step. Patience and persistency and faith are the conditions of success in getting ideas adopted in a world composed of states in all stages of social and political development. If you exercise these qualities and your idea is right, you will win through. If you insist upon all or nothing at the outset, you fail. One should always remember that the only international agreement that is worth anything is a real agreement; that opinion and feeling can not be changed by force; that such a change is an internal process which naturally requires time.

The protocol of December 16, 1920, secures the court upon the character and constitution of which the nations were ready to agree. It secures the jurisdiction of the court so far as the nations are ready to agree, and in two ways it opens the door for enlarging the jurisdiction of the court by making it compulsory just as soon as the nations become ready to agree.

First. It confers jurisdiction not merely upon matters specially submitted, but in the case of general treaties for judicial settlement, so that if any two nations are willing to have all juridical questions as between them judicially settled as of course, they can make a treaty to that effect, and thereupon the court would have compulsory jurisdiction as between these two nations.

Second. The door is kept open by the inclusion in the protocol of a provision under which nations who are willing to give the court compulsory jurisdiction may assent to such jurisdiction and thereby create it. Some twenty, mostly of the smaller powers, have signed that optional clause, so that as between them the court has compulsory jurisdiction. If the United States wishes the court now to have compulsory jurisdiction, the natural course would be for the Senate to advise the President, in response to his message, that the Senate is ready to approve the signing not merely of the protocol, but of the optional clause in the protocol which affords compulsory jurisdiction.

Step Toward Outlawing War

I wish to express my warm agreement with what Senator Borah has recently said about outlawry of war. To that end I sincerely hope that the approval of the United States may be given to this international court, which represents the highest point yet reached by agreement of the nations in affording the same substitute for war by judicial decision of international cases that has been so effective in doing away with private war among individuals.

I hope also that, following upon that approval, the influence of the United States will be employed to bring about a new conference of all the nations entitled to take part in the making of international law, to formulate and agree upon the amendments and additions which should now be made to reconcile divergent views, and to extend the law to subjects not now adequately regulated, but as to which the interests of international justice require that rules of law shall be declared and accepted.

I look forward with confidence to the time when the rules so formulated and accepted as universal law will declare all wars of aggression to be criminal violations of the law of nations. I look forward to the time when the refusal of any nation proposing war to submit to an impartial court the decision of the question whether facts exist to justify it in war upon defensive grounds will be deemed a confession of guilt, and I look forward to the time when the universal opinion of civilization, having such a clear and certain basis for the formation of judgment, will visit upon the aggressor its swift and heavy condemnation, against which no nation may prevail.

War can not be outlawed by proclamation, or by resolution, or by mere agreement, or by mere force. War can be outlawed only by arraying the moral force of the civilized world in support of definite rules of conduct which exclude war, and by giving to that moral force institutions through which that force may be applied to specific cases of attempted violation. One of those necessary institutions is a court by whose judgment the great multitude who desire the peace of justice may know what is just.

The question presented by the President's message is really only a question of moral support. The amount of contribution toward the support of the court to be determined by our own Congress would be negligible. We undertake to do nothing and to give

nobody authority or power to do anything to us. The question is merely whether we shall give our moral approval to the establishment of the same kind of court which our Government has been urging for a generation. It is less than three years since both political parties in the United States practically agreed upon the American attitude, expressed by one of those parties in its platform in these words:

> . . . stands for agreement among the nations to preserve the peace of the world. We believe that such an international association must be based upon international justice and must provide methods which shall maintain the rule of public right by the development of law and the decision of impartial courts.

Since that time the only proposal of any practical step toward giving effect to the belief expressed in the words which I have just quoted is the proposal contained in this message of the President. No one has proposed any alternative method to give effect to that belief.

Can it be that the people of the United States do not care whether or not anything is done to make it possible to outlaw war?

IV. FORMER JUSTICE JOHN H. CLARKE

Excerpt from an address on "Why The United States Should Join The World Court and The League of Nations Now" delivered before the City Club of Chicago on April 26, 1923

Ladies and gentlemen, on February 24th last, President Harding sent a message to the Senate asking that it advise and consent to the negotiation by him of a treaty, in a form suggested, providing for the participation by our Government in the Permanent Court of International Justice. But the Senatorial mind is ponderous and slow to act and in foreign affairs is always suspicious of a plot to impose upon our feeble country; and so, as if fearing that the White House may be cunningly seeking to deprive it of some morsel of prerogative, it has taken six months to think over this request, which should have been granted by a *viva voce* vote, without debate.

A world court in the form in which this one has been organized and acting, for now more than a year, has been the aspiration of leading American lawyers and statesmen for more than half a century. The administrations of Presidents McKinley, Roosevelt, Taft and Wilson all favored it. The Hague Conferences in 1899 and 1907 were thought to present promising opportunities for procuring such a court and our delegates to each of those conferences were instructed to do all in their power to obtain it. The instructions of Secretary of State Root to our delegates in 1907 have become world famous.

But all efforts failed in the Second Hague Conference as in the first, as did also all efforts afterward, until the League of Nations took the subject in hand and in just two years by steady, persistent pressing of the subject upon the attention of the many nations, in a manner in which no other agency in the world could have done, it solved the problem and the Court was opened at The Hague in January, 1922—the first court of its kind in the history of the world.

Thus was it proved again that international problems are not in their nature insoluble but that the reason they have proved insoluble in the past has been that no agency of peace has been in exist-

ence to try to solve them before it was too late—before war passions and war crises had arisen and armies were on the march.

There is no sound reason why the request of the President should not be granted and the only opposition heard to it comes from a little group of Senators, one of whom opposes the Court because it has too much power, another opposes it because it hasn't power enough, and a third, a more naïve or candid soul than the others, opposes it frankly because it is the offspring of the League of Nations, stoutly asserting that no good thing can come out of such a Nazareth.

As a step in the right direction, short though it be, the petition of the President deserves and should receive the cordial support of every lover of world peace in our land, and I am happy to say that instantly upon publication of the President's message our organization telegraphed its approval and urged the Senate to grant his request, for we agree fully with Secretary Hughes that the "preponderant opinion" of our country favors such a court, and with the President declaring that, it is inconceivable that the American people should refuse their adherence to it.

Replies to Two Objections

Two objections, however, are made to our participating in the Court as desired by the President.

The first one is that somehow,—no one has yet formulated how, —such participation would carry us into the League of Nations.

No man in this country could be more impatient than I am of the minuteness with which Secretary Hughes has dissected away all possible relation between our Government and the League, should we participate in the Court; but, speaking as an experienced lawyer, I am sure that with his proposed reservations no substantial relation whatever, legal or moral, would exist between the two. I am profoundly sorry, but I must recognize the fact.

I wish our Government could see its way clear to join wholeheartedly and without any reservations in support of this great Court, for in foreign affairs all party differences should stop at the water's edge,—"at low tide,"—but since the Administration refuses to act without reservations, I hope they will be accepted by the Senate, so that thereby our country may be proved to have

been sincere in its fifty years of professed desire for such a court and thus be kept right, to this extent, with the civilized nations of the world.

The other objection is that five of the great members of the British Commonwealth of Nations have votes in the Assembly of the League and that these, with that of Britain itself, would give Great Britain six votes in the election of the judges of the Court to our one.

This objection rests wholly upon the unworthy, the base, assumption that the representatives of these great, friendly commonwealths, formerly called colonies but known to all men now to be as independent nations as any in the world, would corruptly combine with the mother country in an attempt to corruptly elect corrupt men to serve as corrupt judges to render corrupt decisions which might be unfavorable to our country,—for this is what the objection really comes to. And what would result from such an attempt?—Obviously the immediate destruction of the Court, for such a thing could not be done in a corner and thus it would inevitably defeat itself.

But even if Great Britain and her sister Commonwealths were base enough to attempt such a thing, and the Court could survive, success in such an enterprise would be impossible.

First of all, the judges of the Court can be nominated only by the representatives of the various nations in the Permanent Court of Arbitration at The Hague of which our Government has been a member for many years. This is the best possible guaranty that only men of highest character will become judges. Next, each judge must be elected by a clear majority not only in the Assembly but also in the Council, and Great Britain would have just one vote in the Council and we would have one. It will be interesting to see how these prophets of evil and of international bad faith will get around this provision of the law.

And then, six votes in 53 of the Assembly would not be a very formidable *bloc* after all for purposes of corrupt trading. Has America no friends in the world upon which it could rely for union against such an assault, should it be made, upon the integrity of the Court, if Great Britain and her associates were corrupt enough to attempt it? Of one thing we may be sure, if we cultivate such international suspicions as are implied in this objection to the

Court, we shall soon be as friendless in the world as Germany was in 1914.

But I refuse to discuss further this base objection. It is a shame, a disgrace to us all, that men can be found in our public life capable, even in indirection, of imputing such motives to six great friendly nations which rushed with unreserved devotion to the defense of imperiled freedom in the World War. God may forgive sin but He can never forgive bad manners, especially not such international bad manners as this objection involves.

V. HERBERT HOOVER: "AMERICA'S NEXT STEP"

Address by the Secretary of Commerce Before the Annual Convention of the National League of Women Voters, Des Moines, Iowa, April 11, 1923

In accepting your invitation to address you upon the subject of the recommendation made by President Harding and Secretary Hughes that the United States should join in the Permanent Court for International Justice, it is my purpose to speak of the great purpose underlying this proposal, rather than the technology of its accomplishment.

That purpose is the advancement of organization in the world for the elimination of the causes of war. During the past two years, the Administration has set itself vigorously to the tasks implied in this principle in our own relations to other nations. It has already succeeded in eliminating the most dangerous causes of war between ourselves and our neighbors for our generation by the measures concluded at the Washington Conference. I wish to emphasize this elemental principle, for it is the only foundation of ultimate world peace, and in it lies the first and foremost obligation of every nation that is to strive for the removal of the causes of war with its own neighbors. The Administration's proposal to support the Court is another step in advancement of this particular principle and thus to place our relations upon even more secure foundations.

America at no time has ever diminished its interest in the prevention of war in the world. It was an aspiration of America of long before the last war, and it was a hope of this war itself that it should be the end of wars, that it should never occur again. Whatever the differences of opinion on method of solution of the world problem may be, we have never abandoned resolution to take such steps as experience and wise statesmanship may perfect to these purposes. It is in progressive organization of this purpose that the joining of the Court is proposed.

There is a vivid conflict of opinion among us as to the principles and methods which should guide international co-operation to prevent war. That we should join in world organization of various degrees of implication to enforce peace; that war is to be used as a

weapon to prevent war; or that there shall be created a world police to enforce peace; or that commitments are to be taken in advance for joint action that may limit national independence or that military alliances are to be set up with particular groups to guarantee their safety, or that world association should be created to promote peace by negotiation and agreements—these are all propositions of much divided opinion. But the rejection of one particular device does not mean that America has lost its interest in finding solution.

Whatever the rights or wrongs of these methods or principles, the proposition that we join the Court involves none of them. For the Court relies upon the upbuilding of the processes of justice between nations, and upon public opinion for their enforcement. By it we enter into no obligations to use arms or take no commitment that limits our freedom of action. Its purpose lies solely in facilitating the elimination of many of the causes of war before they rise to the threat of war. The sincere devotion to this principle has been traditional with our people. It is not in itself a bone of contention.

To join the international Court upon the terms proposed lies entirely within the confines of this principle, and the objections leveled against other principles and methods of action can not be justly leveled against it.

Recounts Progress Made

America can point with real pride to the accomplishments of the last two years in the practical realization of this ideal of eliminating the causes of war. The greatest of these accomplishments was the Washington Arms Conference. The agreements reached at that Conference among the great naval powers effected a great reduction in naval armament. The treaties embodying those agreements have become effective among the nations most nearly concerned, and they have been of far more importance than is measured merely by their resultant reduction of expenditure, for they represent the cessation of naval rivalry between ourselves, Great Britain and Japan—rivalry which if continued must have inevitably led to the perils of war within our generation. In addition to the elimination of this most menacing cause of war, agreements

were set up at the Washington Conference in respect to the problems which were creating friction in the Pacific, not only in our relationships with Japan, but the relationships between Japan, China and other nations touching upon the Pacific Ocean. There are no other major threats to our peace in this day.

We have succeeded in other accomplishments in this same field. The conference held with the co-operation of our Government between the five Central American states eliminated a multitude of frictions to such an extent that the peoples of these states have returned to a cordiality and a helpfulness in their mutual relationships which assures long peace. The causes of war have been eliminated from among them. Again there is in progress to-day the great conference in Santiago between the American states dealing with further definite steps that make for real peace and good will.

The international Court is to deal in a judicial way with questions which arise under international treaties, and under established international law; to provide a place where judgment may be given on the merits of a great multitude of questions for the settlement of which there has hitherto been no process except negotiation or their reference to arbitration. And too often in the past, it has been this process of direct negotiation which, beginning calmly enough, has generated friction, friction in turn has led to distrust, distrust to hate, and finally hate has led to danger and sometimes to war.

It was the first step of organized society that men of good will perceived that in issues between individuals, the process of direct negotiation contained inherent dangers of ultimate violence not only to the parties at issue, but involving others; and it was from instinctive forestalling of this violence that grew the law and our courts of many thousand years' standing. Underlying all civil law is the essence of justice and the obvious objective of courts is to assure its administration. The great body of law has been the slow growth of experience and enlightenment, centering around courts for its upbuilding. For while the courts deal with law and equity, yet in the multitude of cases they perfect the law and thus enlarge the area of administered justice.

America has long contended for the extension of this idea between nations, as the most vital necessity for the growth of

peace and order in the world. This step is born of centuries of human experience; it is no experiment. The Court as constituted to-day is to a large degree the product of American thought and the handiwork of American men of both parties, for we were well represented in its formulation.

The principle of elimination of the causes of war and its advancement by arbitral and judicial processes of settlement of a large area of disputes is a long established pledge of the Republican Party. President McKinley, through Secretary Hay, instructed the American delegates to the First Hague Conference to propose an international court of precisely this character. President Roosevelt, through Secretary Root, again instructed the American delegates to the Second Hague Conference to endeavor to bring about a transformation of the Hague tribunal into a definite international court of justice. The Republican platform in the last election pledged the party to consummate this idea. The President strongly supported it in the last campaign.

Security by Process of Law

The establishment of the Hague tribunal was a great step in eliminating these frictions, but it has the demerit of all arbitration in that each party appoints not an arbiter but a representative, who in the presence of an independent party proceeds to a negotiation and ultimately a compromise. If we were to review the great bulk of arbitral settlements which we have made during the many past years, we would find that their solution has been found by compromise rather than by building up a body of principle for the more permanent establishment of international relations. It is through the growth of law that replacement of might must be established.

The security that such organized process of law can give to international life is great, far beyond the upbuilding of international law itself. The difficulties of internal opinion in nations, of racial prejudices that threaten the political life of every statesman, contribute far more than people realize to failure in settlements by negotiation and thus to the growth of friction. The reference to such a court gives statesmen of all lands a resort of great relief to them. The elimination of contentious negotiations must construct good will by stifling the springs of hate which inevitably arise from

every petty dispute. The Court's greatest function, however, lies in the gradual building up of a body of law and precedent in international relations, the administration of which comes through processes of justice and moral right and the very existence of which tends to the exclusion of conflict.

The Court is not the total solution of international co-operation for peace, for the great field of political action as distinguished from judicial action remains unsolved, but this step is sound and sure. It is the minimum possible step in eliminating the causes of war.

The proposals to join the Court have been criticised from various angles. The first of these is that it leads us into some undescribed political entanglement. This is untrue, for the decrees of the international Court are based upon the process of law, not upon political agreement; their enforcement rests wholly on public opinion and not upon force. In supporting this Court, we subscribe to no compulsion whatever. Compulsion is in fact specifically excluded. We do not need to submit any case to the Court unless we feel like doing so at the time the case arises. No other nation can summon us into court except with our consent. The Court itself can not summon us in, nor in any manner or degree exert upon us any kind of compulsion, not even moral. Our proposal to enter the Court and the act of adhesion to it which President Harding has asked, is based upon the assumption that compulsion is not necessary for peoples of good will and a sense of justice.

It is true that part of the other nations, in joining this Court, have joined it in a slightly stronger degree. These other nations have been moved either because they have greater faith in the processes of international co-operation than America is able to show in its present mood of distrust, or else because harsh suffering has made them more fearful to the menace of war.

But the adhesion which President Harding proposes to the international Court is strictly limited by carefully drawn stipulations which will no doubt be fully considered by the Senate. All we do if we ratify President Harding's proposal—all the promises we make—the only obligations we take are these and only these: We promise to pay a share of the running expenses of the Court, a matter less than $40,000 a year; and we promise to take part with forty-six other nations in the choosing of the judges. The judges

are men of international reputation who sit nine years and are freed of all prejudices except to maintain principle and law.

There is another section of opponents of President Harding's proposal who condemn the idea, not because they do not agree to its primary purpose and method, but solely because it was erected under the auspices of the League of Nations. But we are not by this act entering the League in any sense. The connection of the Court with the League is indeed remote. Its sole relationship is that the judges are elected as provided in its own statute, not by the League but by the representatives of the nations to the League acting as an elective body for this purpose. It is this elective body that we join, not the League.

Avoid "Tyranny of Emotions"

To some people, the League is such anathema that even its many good acts are bad. Let us admit frankly that there are among our people many thousands, perhaps hundreds of thousands who, as regards the phrase "League of Nations," are still under the tyranny of emotions associated with that phrase during the political controversy of the last four years. It is unhappily true that in such controversies a phrase is given an odium which disturbs the orderly march of entirely disassociated ideas. What they would willingly assent to as a thing standing by itself, they shrink from merely because it has association with a phrase. There are a few people who apparently maintain an open mind on international co-operation by re-arrangement of their prejudices. The Court is already in existence. It is largely the handiwork of American thought and American hands. For us to insist upon its being torn down and re-erected just because it was created by a conference called by the League (in which Americans took part) is one of the most unseemly suggestions of national selfishness that can be conceived.

Another section of the opponents of President Harding's proposal condemn it because it does not go far enough; because it has no teeth in it. This is the basis of Senator Borah's objection. I admit the enlightenment and the courage of his position. Senator Borah wishes to go much further than President Harding. He would have an international court of such strength that it would

try war itself, and would have us join it in such a manner that we would be obligated to its jurisdiction. Senator Borah's international court in its relation to the nations would be somewhat an analogy to the Supreme Court of the United States in its relation to our states. Now, by all means, let us have no quarrel—on the contrary let us have admiration and respect—for those who show the vision and the courage to go this whole distance. But let us admit that as a practical matter, for reasons familiar to all of you, America is not ready to go this far.

Permit us also to make the plea that President Harding's proposal should not be condemned because the international Court does not go the whole gamut of international co-operation. Those who condemn the proposal because it is merely one method, are the ones who would have complained on the Wednesday night of Genesis, and would have gone to bed with a grouch because the Creator had not yet made a finished job of the sun and the moon, and would have called a mass meeting on Thursday morning to demand more forward action.

Wisdom does not so much consist in knowledge of the ultimate; it consists in knowing what to do next. Frequently those who contribute most to destroy good causes are those who refuse to work day by day within the field of practicable accomplishment, and who would oppose all progress unless their own particular ideas be adopted in full. Progress in the world must come about through men and women of high aspirations and high ideals. But no less must its real march be achieved through men and women whose feet are upon the ground, whose proposals are devoid of illusions, and above and beyond all that are within the practicability of day-to-day statesmanship.

To sum up, this is one more and an essential step on the road of fundamentals to all real peace, and that is the maintenance of good will through the elimination of the causes of war.

To attain universal peace is indeed one of the great ideals before all humanity. It is never wrong to recall that not only moral degeneration and the loss of life flow from war, but that the delicate machinery of social organization, of production and commerce upon which our civilization is founded, can not stand such a shock again. There can be no confidence as to the continuity of our civilization itself unless we can build up preventive safe-

guards. In our generation we need no emphasis by survey of the grief in millions of homes from the last war, the miseries of famine and anarchy, the revolutions that have swept many countries and threatened others, the lowered standards of living, and the more terrible possibilities of a future war through the advancement of science—to warrant any of us submitting to the condemnation as idealists if we can but build even a little of the road to peace.

VI. EDWARD M. HOUSE: "THE RUNNING SANDS"[1]

"The sands are running out, and unless some strong hand can even now clutch Europe and rescue her from the slope down which she is slipping, the catastrophe of the peace may yet become far greater than that of the Great War."—GENERAL SMUTS.

It is difficult for an American of to-day to realize that less than twenty-five years ago the United States was not taken seriously as a world power. The change came when Dewey won his easy but spectacular triumph at Manila Bay. A victorious war with a European power, the acquisition of the Philippines, our new and commanding position in the Caribbean, forced Europe to recognize that the days of our isolation were past. Roosevelt pushed us still further from our isolated corner when he became mediator between Russia and Japan; again when he took action in the Algeciras Conference and when he decided to send our fleet around the world. Roosevelt lacked nothing in audacity or courage, and what he did to mark our growing power in the world arena met with the approval of his countrymen. But our real baptism came with the advent of the Great War. It was not until then that we emerged a full-fledged international giant.

Let us remember that circumstances have had much to do with the commanding position we hold to-day—even though we have chosen, for the moment, not to use it. Previous to 1914 there were seven powers of the first class, but before the war closed it became reasonably clear that there would be but two outstanding nations left. By reason of her position, her population, her natural resources and her wealth, the United States was certain to be one of these, and Germany or Great Britain was certain to be the other. If Russia had not been broken by revolution she would have more than held her pre-war eminence, and, holding it, would also have held France in the front rank. If a strong imperial Russia had survived the havoc of war and had continued her relations with France, together they could have dominated continental Europe and the greater part of Asia. In this event, the United States would not have been the commanding figure she

[1]Reprinted by permission from *Foreign Affairs:* An American Quarterly Review, June 15, 1923.

is to-day. Therefore, it may be said that by accident of circumstances rather than by design we find ourselves the world Colossus.

In thinking of Europe's problems, which have inevitably become our problems, the people of the United States should bear in mind the responsibility which our position has forced upon us. The view taken by many of our citizens that Europe should be left to work out her own salvation in her own way would be tenable if we were discussing Europe prior to 1914. Unhappily, a shattered Europe confronts us. With three of the great continental powers disintegrated, our importance and responsibility are vastly augmented. We must face the facts as we find them, not as we may wish them.

The question arises, now that we have the power, what shall we do with it? Our isolationists believe it should be used solely for our own protection, and that we should go our way, leaving the rest of the world to go theirs. There is a certain appeal in such a program, which many would like to follow if it were possible. Fortunately, or unfortunately, as the view may be, it can not be done. In this Year of Our Lord, 1923, we can no more ignore other nations than one ward in a city can ignore other wards of that same community. The first ward may say that the second ward is unsanitary and deserves the cholera and typhus which have come to it, and that it will do nothing to help. But when cholera and typhus spread into the first ward, then it must in self-protection lend its aid.

That is the position of the United States to-day. We are staying our powerful hand, declaring that a devastated and disease-stricken Europe must save itself.

Change of American Opinion

The drifting of our Government in the direction of complete isolation illustrates certain peculiar phenomena of politics. When President Wilson returned home from Paris with the treaty of Versailles, perhaps 80 per cent. of our people were heartily in favor of the League of Nations in some form. A wealth of evidence supports this statement. If we go back to the late summer and autumn of 1919 we find the churches and social organizations throughout the United States urging ratification of the treaty, and

largely because of the League. A special committee of the American Bar Association urged unqualified ratification of the peace treaty at the annual convention at Boston, September 4, 1919. The Massachusetts Republican Convention in session at Boston, October 4, 1919, unanimously passed a resolution favoring: "Prompt ratification of the treaty of peace, without amendment, but with such unequivocal and effective reservation as will make clear the unconditional right of the United States to withdraw from the League upon due notice; as will provide that the United States shall assume no obligations to employ American soldiers and sailors until Congress shall, by a resolution, so direct; as will make it clear that no domestic questions, such as the tariff and immigration, will be taken from the control of the United States, and that the United States shall be the sole judge as to the interpretation of the Monroe doctrine. There must be no abridgment of the sovereignty of the nation, of the control of its own domestic affairs, or of the maintenance of its national policies." Labor and commercial organizations in all parts of the country followed. Never was greater pressure brought to bear upon a legislative body than was brought to bear upon the United States Senate to pass the treaty in some form.

Then came the irreconcilable conflict between the legislative and executive branches of our Government. The President was determined to have his way, and the Senate were equally determined to have theirs. Unfortunately, the Senate had the power to compel the President to yield or lose confirmation of the treaty, and, equally unfortunately, he refused to give way. As far as his approach to the Senate was concerned, in my judgment, the President's purpose was impeccable but his manner unfortunate.

Politics Confused Public

Once in politics, the League became its football. It was kicked hither and thither, the public mind became confused and all sense of justice and proportion was lost. The fears of women and the cupidity of men were played upon in the electoral campaign and the worst apprehensions of those who desired to keep such a question out of politics were realized. Nevertheless, the League was not the determining factor in the campaign. The

Paris Peace Conference, its prelude and its aftermath, which had aroused the nationalistic susceptibilities of Germans, Irish, Italians and Greeks in Europe, affected those of the same race in this country and they voted *en masse* against the Democratic nominees. The reasons for this are obvious, but that their judgment was hasty and mistaken is becoming every day more certain. The high cost of living and the inevitable complaints of post-war conditions combined to give the Republicans a record-breaking majority.

So easily does misunderstanding and prejudice grow that, although the League is but an infant a few years old, already two phantom Leagues, figments of the imagination, have been created, the one submerging nationalities and dominating them as a superstate, the other a spineless, ineffectual society which fails to intervene when necessary and refuses to do the impossible. Meanwhile the real association of 52 nations is functioning at Geneva, molding public opinion toward the ways of peace and striking at the heart of social and hygienic evils which have become a menace to the general welfare.

Some two years ago, in *La Revue de Genève*, I wrote: "If war had not come in 1914 in fierce and exaggerated form, the idea of an association of nations would probably have remained dormant, for great reforms seldom materialize except during great human upheavals. The world has grown but slowly into its present partially civilized condition. It took a long time to overcome the belief that might was right, but it is now conceded that the physically strong must not oppress those weaker than themselves. The more advanced nations have laws recognizing the sanctity of property and the protection of person, but international laws and ethics have not kept pace with intranational laws and ethics. It is no longer possible to kill the individual man and appropriate his property without being liable to immediate and drastic punishment. It is this intrastate code of laws and morals that the League of Nations is seeking to apply to the international situation. If law and order are good within states, there can be no reason why they should not be good between states. Nations were driven to adopt restrictive and restraining laws in order that their people might live and enjoy the benefits of industry, and the Great War has forced them for

the same reasons to band together for mutual help and preservation. If this is not done we must perish, and, necessity being the mother of invention, we shall find the way. If the Covenant is weak in places it must be strengthened as time goes on and as the exigencies of the occasion demand, but it must never cease to function if civilization is to advance and not disappear."

Had Governor Cox been elected President in 1920 the French would not be in the Ruhr in 1923, and enlightened Germans are now beginning to realize this. With a President committed to a policy of keeping our hands on the plough until the furrow had been run, we could have been as powerful in winning the peace as we were in winning the war. The League of Nations has done its best toward stabilizing Europe, and could have succeeded plus our help; and that we refused. In consequence, our moral prestige has fallen throughout the world.

The Conflict of Parties

The Versailles treaty *per se* is no better or worse than treaties framed under like circumstances usually are. It is quite possible to conceive a much better treaty, but it is doubtful whether it would have been possible for the American President to make it better fighting single-handed as he did and under adverse conditions. Let it be remembered that his political party had lost control of both the Senate and the House of Representatives and that the treaty-making power was only partially in his hands. It is unfortunate, on the one hand, that he did not realize this more completely; on the other it is unfortunate that the opposition party did not take a broader and more patriotic view of the situation.

The views held by the Americans at Paris were quite frankly different from those held by their European colleagues, and, being different, the European representatives took courage and comfort from cabled dispatches and articles coming from the United States, stating that President Wilson need no longer be taken seriously since he had lost the power to enforce his decisions.

At the beginning, and during the first half of the war, the Governments of France and Great Britain were manned by liberals, and if they had been around the peace table they would

have seen eye to eye with Wilson. But when the war closed these liberals had mostly been shaken out of both Governments and their places taken by virile conservatives under the able leadership of Lloyd George and Clemenceau. Advanced liberals in every country hoped until the last moment that Wilson would insist upon a righteous peace, and, failing that, would return home without giving his sanction to a treaty of another sort. But if he had done this he would have left the world in greater confusion than it now is, and he would have had but little support from our people and less from the Senate. He might have been a little less yielding at Paris and a little more yielding at Washington if he had realized that the situation was no longer wholly in his hands. George and Clemenceau did not sense the real situation any more than Wilson, and he might have safely forced them further toward his point of view. On the other hand, the result would probably have been the same, for the Senate were plainly waiting to deal him a mortal blow, and chose the Covenant as the most convenient spot to strike.

Nevertheless, taking the treaty as it is, it could have been made a workable and efficient instrument for peace had we done our part. Among those who know there is absolute agreement that the crux of most of the trouble that has arisen since the armistice was signed is France's fear of Germany, not immediate, but eventual. Failure to pay reparations has been the apparent cause of the controversy, but the real cause is the fear of Frenchmen that when Germany is in condition to pay she will also be in condition to discontinue payment and, should it suit her plans, to invade France again.

That was the situation which confronted the American delegates in Paris and that is the situation to-day. There is but one solution and that is to guarantee France, and accompany the guaranty by a demand that a just sum shall be fixed for reparations, a sum which Germany can pay. Clemenceau, Wilson and George agreed upon the sensible and the reasonable plan to accomplish this result, and the Anglo-French and the Franco-American treaties were formulated and signed. The mere existence of a treaty of guaranty would in itself be sufficient to keep Germany from embarking on another adventure like that of 1914; Great Britain and the United States would never be called upon to

fulfill their guaranties. Had the Senate ratified both treaties placed before it, with the League of Nations in force to modify and adjust unfair provisions of the Versailles treaty, a different world might exist to-day.

To-morrow's Developments

The United States, after having risen to heights of courage and idealism in its entry and prosecution of the war, has gone to the other extreme in the making of peace. For taking this course history will probably be even less sparing of us than our present-day critics.

Therefore, until to-morrow, when we shall again lend a guiding and helping hand, Europe must work out its own salvation. The problems are acute, but they are not insoluble, even without our aid. The French adventure in the Ruhr may not be wholly bad in its consequences. The Germans are now realizing the bitterness of defeat, and the French are not accomplishing what they sought. This may lead both to a maximum effort toward mutual accommodation. When each side reaches such a frame of mind an agreement can be brought about. Germany must be willing to accept France's fear as a fact, not an illusion, and must offer to meet it in any reasonable way. This might be done by creating a zone of ample proportions along the Rhine in which Germany would agree to dismantle fortifications already there and build no new ones; she might also agree neither to maintain nor recruit troops within that area. Such a zone is already partially warranted by the treaty of Versailles in Part V, Chapter IV, Article 180, which reads: "All fortified works, fortresses and field works situated in German territory to the west of a line drawn 50 kilometers to the east of the Rhine shall be disarmed and dismantled." In addition, France might obtain an especial guaranty from both Great Britain and Italy, similar to that offered at Paris by Lloyd George and Wilson.

The Irish Free State has now made application for membership in the League and undoubtedly will be admitted at the September meeting. The League is a God-sent haven for such states as Ireland. While many of her differences with Great Britain have been settled by treaty, there are still matters to be threshed out

between them. They may be able to arrange these unsettled problems privately, but if they can not Ireland has sought the only forum open to her where it can be done.

Germany, too, will doubtless soon seek the same sanctuary. In the League a hearing before all the nations of the world may be had, and if not the power of the League then surely the power of public opinion may be invoked. When Ireland and Germany are once Members of the League there is certain to be a desire on their part for the United States also to join, for what other nation is there whose interests are more detached than ours?

Germany should be permitted League membership, and the League should undertake to see that Germany lived up to her obligations in the restricted zone. Once secured from unwarranted invasion, France should, and doubtless would, be reasonable as to the sum Germany must pay for reparations. This sum and the time and manner of its payment should be determined by a commission to be agreed upon by France and Germany. This commission should also present a plan for the stabilization of the mark and for specifying the nature of security Germany should give that her obligations would be met as they became due. Once the entire problem was in course of settlement, American and European bankers would probably co-operate to make the plan a success. These measures should have been taken as soon as the United States stepped from under the responsibilities of peace-making.

But while the United States of to-day is not the United States of yesterday, there are unmistakable indications that she is also not the United States of to-morrow. The courage and selflessness which were the compelling influences that brought us into the war are but latent, and will leap forth under proper leadership. After 1917–18 Europe will scarcely make the mistake of thinking that we are as timid and selfish as our present attitude would indicate. Our people, native- and foreign-born, cherish the belief that this Republic was created to become an instrument for the betterment of man, and not merely a pleasant and safe abiding-place. They will not be content until the United States has again assumed the leadership and responsibilities in world affairs commensurate with her moral, economic and political position.

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I. INTRODUCTION

On June 28, 1923, it was four years since the treaty of Versailles was signed and exactly nine years since the Archduke Franz Ferdinand was assassinated at Serajevo. The five years between the murder and the signature of the treaty saw the disappearance of a system of international polity which had grown up in the century that had elapsed since the treaty of Vienna of 1815. There is now emerging the framework of what in due course will become the political system of the twentieth century.

But just as the conditions surrounding the present generation are essentially different from those surrounding the previous one, so the new political world differs in essentials from the one which died in the embers of the World War. For the first time in history, a physically unified world is adjusting its political régime to that unity. As a consequence, the number of subjects which must be handled by nations in common in order that they may be handled at all steadily multiplies. For example, in the last ten years the principles regulating aerial navigation were first laid down internationally and were applied nationally only in the second place.[1] Not only has communication unified the world, but new developments immediately generate their international problems, capable of solution only by international action. Consequently, virtually continuous conference and the nucleus of an international administrative civil service, including secretarial facilities, are current necessities.

State Policy in International Relations

To estimate properly the relationships between nations, it must always be kept in mind that foreign offices deal with two sets of rules. One set may be defined as legal and consists of the rules and practices of international law and the agreements made with other states, either separately or collectively. The other set consists of the opinions and theories which a state holds respecting its position in the world or the status it wishes to obtain,—a set of desiderata usually referred to as policy.

[1]The Comité international juridique de droit aérienne dates from 1910.

Matters falling within the first class are subject to the rules of law and are usually settled on the basis of such rules. Matters falling within the second class are seldom affected by the rules of law; and are customarily resolved by bargaining, concessions and other forms of trading useful to obtain national advantages. While both types of relationship are managed by the political department of governments, they are obviously not political in the same sense and to the same degree. The fixed rules of international procedure, however, have constantly suffered in application by conflict with national policy.

This situation has been due to the fact that states regarded themselves as superior to law and reserved the privilege of interpreting all matters affecting themselves. This condition brought it about that each state overjealously guarded its right to go to war; so that even the simplest dispute between nations might, if the Government of the moment so concluded, be raised into a question of "political" importance and a settlement sought on the basis of self-interest. To facilitate this metamorphosis there existed in international law the doctrine of *rebus sic stantibus*, by which all countries have frequently held that treaties in force and never denounced need no longer be regarded as binding since the conditions existing at the time of their conclusion had changed, —in the opinion of the state which stood to gain thereby.

In such conditions, the joining of two or more states for purposes of policy and the consequent pledge of military force to carry out that policy, in case they should deem it worth while, gave the term "alliance" a very bad connotation. But the plain fact about political agreements is that their significance lies not in their terms, but in the conditions that surround their operation. It is not so much the moral hazards of the agreement as the state of the world in which it exists that makes it good or bad. The general state of law at the time and the international machinery then existing will give more character to a political agreement than will result from its terms.

Limitations of State Policy

Every one of the alliances made since the close of the World War contains an article to the effect that, to use the phrase of the

Franco-Polish agreement, it is "in conformity with the Covenant of the League of Nations." As that is an engagement freely taken between the parties, it is appropriate to recite the pledges to which the respective allies have agreed to conform both by reason of membership in the League of Nations and by reason of their bilateral agreements.

By Art. 18 of the Covenant no treaty shall be binding until registered; and registration enjoins upon the Secretariat that the document shall be published as soon as possible. Failure to register would seem to relieve a contracting state from responsibility under the agreement.

By Art. 19 "the Assembly may from time to time advise the reconsideration by Members of the League of treaties that have become inapplicable." The effect of that pledge should be that allies may be subjected by representatives of fifty or more other states to criticisms respecting their policy and the engagements which express it.

By Art. 12, in the form in which it will stand after an amendment is accepted, it is provided that "the Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture they will submit the matter either to arbitration or judicial settlement or to inquiry by the Council and they agree in no case to resort to war until three months after the award by the arbitrators or the judicial decision, or the report by the Council."

By Art. 11 "any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations."

By Art. 13 of the Covenant and by Art. 36 of the Statute of the Permanent Court of International Justice, to both of which members of the alliances are bound by their own acts of ratification, "disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission."

The postwar alliances are to be interpreted in the light of these engagements taken by the allies under acts of equal validity with the ratifications which brought the alliances into force. The postwar alliance is therefore subject to control by the principles of international law to a far greater degree than any prewar alliance could have been.

Postwar allies, by reason of their engagements under the Covenant, have lost the right to reserve to themselves either the exclusive interpretation of the alliance or the privilege of adducing it under whatever political exigency they may elect. They have further lost the right of resorting to hostilities before a neutral examination of the case has taken place. All of which they have voluntarily accepted by negotiating their agreements "in conformity with the Covenant of the League of Nations."

Revision of Peace Treaties Going On

There is another feature common to the treaties of alliance, namely, that they are intended to maintain the peace created by the treaties of Versailles, St. Germain-en-Laye and Trianon. Notwithstanding the fact that the Covenant of the League of Nations is Part I of each of those treaties, it must be regarded as a separate document with a separate life. Its conclusion as Part I of the treaties had the effect of making its engagements binding upon the defeated powers, who were not members of the League, without the necessity of a reciprocity on the part of the victors.[1]

In many respects the treaties of peace are inconsistent with the principles enunciated in the Covenant. But the League has no jurisdiction over their carrying out except in those cases, few in number, where it is specifically assigned a duty.

To give an instance of lack of jurisdiction: the Reparation Commission and the whole reparation system were exclusively reserved to the victorious states—the collective party of the first part of the treaties of peace. The commission itself is responsible only

[1]Austria was admitted to the League of Nations on December 15, 1920; Bulgaria on December 16, 1920; Hungary on September 18, 1922; and Turkey has received the promise of support for her application from the states represented at the Lausanne Conference. On admission, all of those states acquire the same rights and assume the same obligations under the Covenant as the other members. Germany and Russia are outside.

to the Governments appointing its delegates and the reparation part of the treaties established a complete system for making decisions, even providing its own system of arbitration for the settlement of difficulties not smoothed out by the regular operation of the commission. Until the elaborate system set down in Annex II of Part VIII of the treaty of Versailles is exhausted—a very unlikely contingency—there could be no question of a reparation question coming before the organs of the League, unless by the spontaneous assent of the interested states.

As an instance of assigned jurisdiction: matters involving political advantages in the treaties of peace were carefully reserved for decision by the victors unless they took a form which required a disinterested interpreter. Such a case was that of the Saar Basin, which was refused to France territorially, but in which France was granted the coal mines on reparation account. The problem of giving France the mines but not the territory became possible of solution only by employing the League as a disinterested third party to appoint the Governing Commission to hear complaints from the population, and finally to conduct a plebiscite. Only two or three abnormal relationships such as that were given to the League under the treaties.

Its other duties under the treaties are the normal ones of calling conferences on such questions as communications and transit and a general service as a mediator in specific circumstances.

The treaties of peace are, with these exceptions, entirely beyond the jurisdiction of the League. And because they were negotiated prior to its beginning to function on January 10, 1920, the general rules of the Covenant do not apply to them.

With the exceptions noted, therefore, the treaties of peace must be regarded as documents of high politics, executable by the processes of negotiation. This is what is going on. The treaties of peace are no longer even the guiding documents. The treaty of Versailles in respect to reparation has been definitely revised twice, while its actual operation proceeds on the basis of two or three hundred decisions of the Reparation Commission, two or three dozen agreements between the allied powers, and a number of disagreements between the same. This process of revision goes on in detail and inevitably will continue. The treaties of peace are consequently undergoing considerable change.

These changes for the most part have resulted from free negotiation between the parties that imposed the treaties and those upon whom they were imposed. In most cases only those states specifically interested have been parties to the revisions.

The body of the peace settlement as a result of these developments becomes less and less of a unilateral resolution.

Every document printed herein has a reputation of being secret. But the treaties printed herein, though constantly called secret, are not even concealed. Every one of them has either been issued by the Governments in appropriate official publications or has been supplied by the Governments upon a mere request. A somewhat anomalous feature of the situation is the slowness with which they have been presented at Geneva for registration by the Secretariat of the League of Nations.

II. ALLIANCE MOVEMENTS AGAINST GERMANY

1. The Problem of French Security

It is well known that the French desire for security has played a great part in postwar policies. The question was first raised at the Paris Peace Conference, where the guaranty articles incorporated in the treaty of Versailles, Arts. 42–44 and 429–32, were regarded by the French as insufficient for their purposes. In order to secure French assent to other decisions, it was proposed by the American and British delegations that they underwrite France. The resulting agreement possessed a certain novelty of form, being neither joint nor several. It consisted of an agreement between France and the United States and an agreement between France and Great Britain in identic terms; but neither was to come into force until the other came into force. The agreement with the United States follows[1]:

Whereas the United States of America and the French Republic are equally animated by the desire to maintain the Peace of the World so happily restored by the Treaty of Peace signed at Versailles the 28th day of June, 1919, putting an end to the war begun by the aggression of the German Empire and ended by the defeat of that Power; and,

Whereas the United States of America and the French Republic are fully persuaded that an unprovoked movement of aggression by Germany against France would not only violate both the letter and the spirit of the Treaty of Versailles to which the United States of America and the French Republic are parties, thus exposing France anew to the intolerable burdens of an unprovoked war, but that such aggression on the part of Germany would be and is so regarded by the Treaty of Versailles as a hostile act against all the Powers signatory to that Treaty and as calculated to disturb the Peace of the world by involving inevitably and directly the States of Europe and indirectly, as experience has amply and unfortunately demonstrated, the world at large; and,

Whereas the United States of America and the French Republic fear that the stipulations relating to the left bank of the Rhine contained in said Treaty of Versailles may not at first provide adequate security and protection to France on the one hand and the United States of America as one of the signatories of the Treaty of Versailles on the other;

[1]Reprinted from Sen. Doc. No. 63, 66th Cong., 1st sess., p. 5, 7, 9.

Therefore, the United States of America and the French Republic having decided to conclude a treaty to effect these necessary purposes, Woodrow Wilson, President of the United States of America, and Robert Lansing, Secretary of State of the United States, specially authorized thereto by the President of the United States, and Georges Clemenceau, President of the Council, Minister of War, and Stéphen Pichon, Minister of Foreign Affairs, specially authorized thereto by Raymond Poincaré, President of the French Republic, have agreed upon the following articles:

ARTICLE I. In case the following stipulations relating to the Left Bank of the Rhine contained in the Treaty of Peace with Germany signed at Versailles the 28th day of June, 1919, by the United States of America, the French Republic and the British Empire among other Powers:

> "ARTICLE 42. Germany is forbidden to maintain or construct any fortifications either on the left bank of the Rhine or on the right bank to the west of a line drawn 50 kilometres to the East of the Rhine.
>
> "ARTICLE 43. In the area defined above the maintenance and assembly of armed forces, either permanently or temporarily, and military manœuvres of any kind, as well as the upkeep of all permanent works for mobilization are in the same way forbidden.
>
> "ARTICLE 44. In case Germany violates in any manner whatever the provisions of Articles 42 and 43, she shall be regarded as committing a hostile act against the Powers signatory of the present Treaty and as calculated to disturb the peace of the world.",

may not at first provide adequate security and protection to France, the United States of America shall be bound to come immediately to her assistance in the event of any unprovoked movement of aggression against her being made by Germany.

ART. II. The present Treaty, in similar terms with the Treaty of even date for the same purpose concluded between Great Britain and the French Republic, a copy of which Treaty is annexed hereto, will only come into force when the latter is ratified.

ART. III. The present Treaty must be submitted to the Council of the League of Nations, and must be recognized by the Council, acting if need be by a majority, as an engagement which is consistent with the Covenant of the League. It will continue in force until on the application of one of the Parties to it the Council, acting if need be by a majority, agrees that the League itself affords sufficient protection.

ART. IV. The present Treaty will be submitted to the Senate of the United States at the same time as the Treaty of Versailles is submitted to the Senate for its advice and consent to ratification. It will be sub-

mitted before ratification to the French Chambers of Deputies for approval. The ratifications thereof will be exchanged on the deposit of ratifications of the Treaty of Versailles at Paris or as soon thereafter as shall be possible.

In faith whereof the respective Plenipotentiaries, to wit: On the part of the United States of America, Woodrow Wilson, President, and Robert Lansing, Secretary of State, of the United States; and on the part of the French Republic, Georges Clemenceau, President of the Council of Ministers, Minister of War, and Stéphen Pichon, Minister of Foreign Affairs, have signed the above articles both in the English and French languages, and they have hereunto affixed their seals.

Done in duplicate at the City of Versailles, on the twenty-eighth day of June, in the year of our Lord one thousand nine hundred and nineteen, and the one hundred and forty-third of the Independence of the United States of America.

[SEAL.]	WOODROW WILSON.
[SEAL.]	ROBERT LANSING.
[SEAL.]	G. CLEMENCEAU.
[SEAL.]	S. PICHON.

The American agreement was submitted to the Senate shortly after the treaty of Versailles was sent to that body. No action was ever taken upon it.

The British treaty was favorably passed upon by the London Parliament; and, though it was a document supposedly only of the United Kingdom, was likewise passed by the Parliaments of Australia, New Zealand and South Africa. The ratification of the Crown was not, however, given, owing to the failure of the United States to bring into force its agreement.

The failure of this effort to underwrite France caused a keen disappointment in Paris. It was not until the summer of 1920 that France became convinced that the project represented by the agreements was a dead letter. She then turned to other quarters for what she wished.

Franco-Belgian Military Understanding

By Art. 31 of the treaty of Versailles and the corresponding articles in the treaties with Austria and Hungary, it is recognized that the treaties of April 19, 1839, which established the neutral status of Belgium, "no longer conform to the requirements of the

situation." Those treaties were accordingly declared abrogated. Belgium for her part decided to reject neutralization as a future condition. Having rejected the old guaranty, she decided to find a new one. In this mood negotiations took place with France.

It became known in September, 1920, that France and Belgium had reached an agreement respecting common action toward Germany. There was an immediate hue and cry respecting its relation to the Covenant of the League of Nations and a widespread demand outside of the two countries concerned for the publication of the agreement. When it was announced that the document was in the form of a military understanding between the general staffs which—dealing with the movement of troops under certain hypotheses—would lose its value if its terms were made public, the agitation was increased rather than allayed. Public opinion in general demanded more accurate information. The French and Belgian Governments eventually agreed to the publication and registration with the League of an exchange of notes between their respective ministers of foreign affairs which gave governmental effect to the detailed military understanding. That exchange of letters, which was registered on November 4, 1920, reads as follows[1]:

Ministry of
Foreign Affairs.

BRUSSELS, September 10, 1920.

Excellency,

We have the honor to inform your Excellency that the Belgian Government gives its approval to the Military Understanding, the text of which was signed September 7, 1920, by Marshal Foch, General Maglinse, Chief of Staff of the Belgian Army, and General Buat, Chief of Staff of the French Army, designated for this purpose by their respective Governments.

The object of this understanding is to reinforce the guaranties of peace and security resulting from the Covenant of the League of Nations.

It is recognized as a matter of course that the two states retain undiminished their rights of sovereignty in respect of the imposition of military burdens upon their respective countries and in regard to determining in each case whether the eventuality contemplated by the present understanding has in fact arisen.

[1]League of Nations, *Treaty Series*, II, 128.

We take this opportunity, Mr. President, to renew to your Excellency the assurance of our very high esteem.

Minister of
National Defense.

(s) PAUL EMILE JANSON.

Prime Minister,
Minister of Finance,
Minister of Foreign Affairs.
(s) DELACROIX.

His Excellency Monsieur MILLERAND,
President of the Council,
Minister of Foreign Affairs,
Paris.

Ministry of
Foreign Affairs.

FRENCH REPUBLIC

Directory of
Political and Commercial
Affairs.

PARIS, September 15, 1920.

Mr. President,

By a letter dated the 10th of this month and bearing the signature of the Belgian Minister of National Defense, as well as your Excellency's signature, your Excellency had the kindness to inform me that the Belgian Government gave its approval to the Military Understanding, the text of which was signed on September 7, 1920, by Marshal Foch, General Maglinse, Chief of Staff of the Belgian Army, and General Buat, Chief of Staff of the French Army, designated for this purpose by their respective Governments.

I have the honor to inform you that the Government of the Republic likewise gives its approval to this Military Understanding.

The object of this understanding is to reinforce the guaranties of peace and security resulting from the Covenant of the League of Nations.

It is recognized as a matter of course that the two states retain undiminished their rights of sovereignty in respect of the imposition of military burdens upon their respective countries and in regard to determining in each case whether the eventuality contemplated by the present understanding has in fact arisen.

I take this occasion, Mr. President, to renew to your Excellency the assurance of my very high esteem.

(s) MILLERAND.

His Excellency,
Monsieur DELACROIX,
President of the Council of Ministers,
Minister of Foreign Affairs,
Brussels.

The documents were registered by both parties through letters dated November 2, 1920, from the secretary-general of the French Ministry of Foreign Affairs and the Belgian minister of foreign affairs. As these letters constitute practically an additional engagement with the Members of the League of Nations as to the character of the agreement, their common text is set forth:

Mr. Secretary-General,

I have the honor to inform you that the French and Belgian General Staffs have drawn up plans for a series of military measures to meet the eventuality of a new German aggression against Belgium and France.

In order to conform to the engagement included in Article 18 of the Covenant of the League of Nations, I have the honor to communicate to you under this cover the correspondence exchanged between the French and Belgian Governments. The understanding in question is purely defensive and has reference exclusively to the case of an unprovoked aggression. Its object is to reinforce the guaranties of peace and security resulting from the Covenant of the League of Nations.

France next turned to Poland, Germany's neighbor on the east. The Franco-Polish negotiations are the subject of a separate chapter.

Offer of British Guaranty

During 1921 the so-called Supreme Council, being occasional conferences of the premiers of the principal Allied Powers, met frequently, chiefly to discuss the problem of reparation. Throughout these meetings and always in the statements of her public men, France continuously emphasized the necessity for her security. In December, 1921, there was such a conference in England, at which a further session at Cannes was determined upon for January, 1922.

At Cannes on January 4, the British Government presented Aristide Briand, the French premier, with an aide-mémoire proposing a general settlement of all outstanding questions in the reconstruction of Europe, and further proposing that the British Empire underwrite French safety. In effect, this proposal amounted to bringing into force for Britain alone the British-American-French agreements of 1919 which had failed. This form was described in the aide-mémoire as a second alternative.

The first alternative, which was not proposed by the British

Empire, was stated to be an offensive and defensive alliance, respecting which the document commented:

. . . Though such an alliance might seem desirable to France, it would in reality not serve her interests well, because such alliances are contrary to British tradition. The British people understand the claim of France to be guaranteed against invasion of her soil; but they would not willingly be committed to military liabilities for breaches of the peace elsewhere. Participation in military enterprises in Central and Eastern Europe they would not contemplate. An alliance involving, or even appearing to involve, any such responsibility would not carry the whole-hearted concurrence of the British people. On the contrary it would be strongly opposed by large sections of the community in all parties, and would therefore not be as valuable to France as an undertaking in another form. . . .

The alternative proposed was as follows:

DRAFT OF ARTICLES OF PROPOSED TREATY BETWEEN THE GOVERNMENTS OF THE BRITISH EMPIRE AND THE FRENCH REPUBLIC

I. In the event of direct and unprovoked aggression against the soil of France by Germany, Great Britain will immediately place herself at the side of France with her naval, military and air forces.

II. The high contracting parties reassert their common interest in Articles 42, 43 and 44 of the treaty of Versailles, and will consult together should any breach of them be threatened or any doubt arise as to their interpretation.

III. The high contracting parties undertake further to concert together in the event of any military, naval or air measures inconsistent with the treaty of Versailles being taken by Germany.

IV. The present treaty shall impose no obligations upon any of the Dominions of the British Empire unless and until it is approved by the Dominion concerned.

V. This treaty shall remain in force for a period of ten years, and shall, if approved by both parties, be renewable at the end of that period.[1]

CANNES,
13th January, 1922.

[1]An additional treaty was offered to Belgium in the following draft terms:
"In consideration of the fact that Belgian territory, which lies between Germany and France, is exposed in a special manner and in consideration of the fact that Germany, in order to attack France, invaded Belgium at the beginning of August, 1914, as well as in consideration of the fact that Belgium still suffers from the damages resulting from the invasion and occupation, the king of England

This proposal was contingent:

In order, however, that effect may be given to it, it is necessary that the treaty should be accompanied by a complete entente between the two countries. This was the basis of the agreement of 1904 which gave France the support of Great Britain in the war, and it is equally essential now.

The conditions to be met were stated to be:

His Majesty's Government consider that the first condition of a true entente is the avoidance of naval competition between the two countries. . . .

The British Government also strongly desire that France shall co-operate whole-heartedly in the economic and financial reconstruction of Europe. . . .

In the same spirit they would desire to clear away all questions on which controversy between the two countries is possible. It is essential, for instance, that peace in the Near East shall be restored, and that there shall be absolute agreement between France and Great Britain as to the allied policy to be pursued. . . .

His Majesty's Government are confident that there are no outstanding questions which can not be solved in a manner satisfactory to both Governments and that the treaty of guaranty between the two countries may thus be sealed and confirmed by a complete and a durable entente. . . .

It is moreover their particular desire that this entente between Great Britain and France, so far from excluding other nations, should form the basis of a wider scheme of international co-operation to insure the peace of Europe as a whole.

Reception of the Proposal

The publication of this proposal and its favorable receipt by Premier Briand created a political crisis in France. The parliamentary commissions on foreign affairs sent him telegrams at Cannes of a querulous character. He deemed it wise to go to

and the king of Belgium have concluded between themselves the following convention:

"Art. 1. In the event of an indirect and unprovoked attack upon Belgium, Great Britain will forthwith come to the aid of Belgium with all its land, water and air forces.

"Art. 2. Belgium will employ all its military and air forces to protect its territory in the event of an attack or a violation of its territory.

"Art. 3. Belgium will not conclude any treaty nor enter upon any engagement in conflict with this agreement."

Paris and give an accounting. On the eventual interpellation he won a vote of confidence, but left the Chamber to lay his resignation before the President. It was his attitude that the opposition to him would finally create a situation bringing about his downfall and he was not disposed to face that losing game. Raymond Poincaré succeeded him as premier, backed by the Nationalist bloc.

Poincaré's policy may perhaps be best summarized in his own words on the occasion of his re-election as president of the Conseil-général of the Meuse on August 22, 1922. At that time the premier said:

> On the morrow of the armistice each of the belligerents in a certain measure resumed its sacred egoism, of which one of them was proud and the promptings of which were more discreetly followed by the others. I am neither astonished nor scandalized at that. But what I fail to understand, what France does not understand, is why for more than three years, in the peace treaty as in later conventions, agreement among the allies is so frequently made at our expense. What good is it to recall now the long series of deceptions inflicted upon us, the concessions demanded of us in favor of Germany, the reductions successively imposed upon our claims, the opposition we have met every time that we have urged recourse to guaranties and sanctions? It has gradually come to France that the right of having a foreign policy is almost denied to her. An alliance can, however, have lasting force only if it is made on the basis of equality and of mutual respect for national sovereignty. France is a sufficiently great moral power to be sure that in contracting a friendship she always gives as much as she receives.[1]

It was the latter point that the French premier emphasized in his negotiations on the draft treaty. He objected to its form because, as he held, it gave something to France without France giving anything in return. It was beneath French dignity to accept international charity. Great Britain should also accept a French guaranty, which was not definitely specified in the French counterdraft. If the treaty were mutual and the guaranties both of weight, France could consider that she was negotiating with an equal and could continue the negotiations with dignity. The British Empire did not feel the necessity for such a guaranty. The French also objected to a guaranty which might expire at the end of ten years.

[1] *Le Temps*, August 22, 1922, p. 1.

Position Respecting the Rhineland

Two other phases of French security have played a part in the period since the treaties came into force. These are the question of the duration of the occupation of the left bank of the Rhine and the effort to erect an independent Rhineland state.

The first point has been much discussed in the so-called Supreme Council. At Paris the part of the treaty of Versailles providing for the occupation of the left bank of the Rhine was the subject of considerable compromise. There are three zones, the evacuation of which is dependent upon "the conditions of the present treaty being faithfully carried out by Germany." In the Cologne sector are the Belgians, to be retired in five years. The Coblenz sector, now held by the British, is to be evacuated in ten years. The Mainz sector, held by the French, is to be evacuated in fifteen years. A highly technical controversy continues in France as to when these periods shall begin, it being obvious that if the date is not, as would normally be supposed, January 10, 1920, the day the treaty of Versailles entered into force, the dates of evacuation would not be 1925, 1930 and 1935 respectively.

On May 22, 1919, General Mangin, commanding general of the French army at Mainz, sent a colonel of his staff to General Liggett's headquarters at Coblenz to inquire what the American attitude would be toward a political revolution on the west bank of the Rhine for the establishment of an independent Rhineland republic free from Germany. The staff officer stated that fifty French deputies were ready to be sent into the American sector to assist in starting the revolution.[1] The proposition referred to revolved around Hans Dorten of Wiesbaden. M. Clemenceau conducted an investigation and wrote a letter to General Mangin, of which Baker says:

> In this letter there was no serious censure of General Mangin, much less any repudiation of the project. . . . Indeed, no secrecy was made of the concurrence of the Government in Mangin's sympathy with the movement for revolt.

Early in 1923 Josef Smeets, the Bavarian separatist leader,

[1]Ray Stannard Baker, *Woodrow Wilson and World Settlement*, II, 87. The statement is substantially verbatim from General Pershing's report to the President.

testified in court that he had been receiving money from French sources in connection with that campaign.

A report dated April 16, 1923, addressed by the high commissioner of the French Republic in the Rhine provinces, Paul Tirard, to the Secrétariat-Général, Paris, reviewed the relations of the French authorities in occupied Germany with Dr. Dorten. After explaining the difficulties of Dorten's position immediately after the 1919 incident, the salient points in the report are:

> While maintaining imperturbably its point of view amid the whirlpool of "alliance politics" the French high commissariat did everything it could do without bringing itself to grief to preserve for Dr. Dorten the possibility of action within certain limits. . . . Thanks to this support, in short, Dorten was able to get his adherents together, maintain their enthusiasm, increase his propaganda and establish journals.
>
> In the middle of 1922 after a grave crisis, of which I duly told you, he wished to reorganize his party. He remained faithful to the program which he had gradually elaborated for the creation of an autonomous federal state within the Reich; but this, as he told me repeatedly, was merely designed to calm the uneasiness of the majority of his followers, who, being anti-Prussian but German, were apprehensive of a disguised French annexation. In Dr. Dorten's mind such creation could not last and would soon be replaced by an independent state, with leanings toward France.
>
> At the end of February, 1923, the high commissariat reproached Dr. Dorten with three grave matters: firstly, that the Rhenish leader did nothing to develop the separatist movement, knowingly exaggerated its importance and responded to the French effort in the Ruhr by a complete lack of activity in the Rhineland; secondly, that he misused the funds intrusted to him; and, thirdly, that he provoked campaigns in the French press which were hostile to the high commissariat.

This report was made at a time when Dr. Dorten was in Paris. It concluded by advising negotiations with him as a "valued and weighty counsellor."[1]

The French concern as to the Rhineland is military. The general staff has always laid stress upon the fact that so long as Germany possesses both banks of the Rhine, she possesses a springboard for launching an army on to the French plains to the west. If the boundary were at the Rhine by reason of a buffer state, or beyond the Rhine eastward, the strategic springboard would no

[1] *Manchester Guardian Weekly*, VIII, 515.

longer exist. Its continuance bears directly upon the problem of the potential security of France.

German Nonaggression Pact Offer

On New Year's Day, 1923, the newspapers carried an extract from a speech made by Chancellor Cuno at Hamburg the previous day to the effect that France had rejected a German offer intended to prove to that country "that we have no bellicose ideas and that she can evacuate without fear the left bank of the Rhine." It was indicated in the address that this proposal had been made through a third power, which proved to be the United States. The Department of State on January 2 issued a statement that it had been "deemed inadvisable to transmit the proposal to the Governments named unless it appeared that it would be favorably considered by the French Government."

"On December 18," stated Premier Poincaré, at the Interallied Conference on Reparation and Interallied Debts, called at the Quai d'Orsay, January 2–4, 1923, "Mr. Hughes had acquainted the French ambassador that the German ambassador had told him that he was in a position to propose the conclusion of [the agreement referred to]. Mr. Hughes had added that if M. Jusserand, after transmitting this communication to M. Poincaré, received from Paris an encouraging reply, he would ask Herr Wiedfeldt to put his proposal in writing. M. Poincaré, to whom this proposal had been immediately communicated, cabled to M. Jusserand that the proposed pact was undoubtedly a maneuver on the part of the German Government on the eve of the Paris conference."

In a subsequent conversation on December 21, M. Jusserand had explained to Mr. Hughes M. Poincaré's objections and the Secretary of State had read a text in a single sentence which the German ambassador had just communicated to him. The text was to the following effect:

> "The German, British, French and Italian Governments solemnly engage themselves toward one another and promise the United States not to make war among themselves for a generation (say for thirty years), unless the matter is decided by popular vote, which should make war virtually impossible."

M. Poincaré on receipt of this text again characterized the proposal as a "clumsy maneuver." The French reasons on both occasions were:

If the German Government wished to get rid of all chance of war, it might be asked why had it limited the promise of peace to thirty years.

Even in less time than thirty years German propaganda might unhappily develop such desire for revenge that when the time came the popular vote in Germany might be in favor of aggression against France.

The French constitution gave the representatives of the nation full powers over peace and war, and this right could not be withdrawn without a revision of the constitution. Moreover, the French Parliament would never take the initiative in any war.

For the German promise to have any value it would have to be guaranteed with positive engagements on the part of Great Britain and the United States, engagements supported by agreements assuring to France within a determined period an arranged military defensive co-operation. There was already in Art. 10 a formal undertaking of nonaggression which bound France. As soon as Germany was admitted to the League of Nations, she would have the benefits and the burdens of that article. Germany wanted to throw doubt on the sanctions which, sooner or later, the allies would be called on to take if she violated her engagements, and which are foreseen by several dispositions of the treaty of Versailles and notably by paragraph 18 of Annex II of Part VIII.

France could not fall into that net.

Besides, Mr. Hughes had not held out the least possibility of an Anglo-American guaranty. But even an Anglo-American pact of guaranty, duly ratified by the Federal Senate, and assuring to France within a determined period an arranged military defensive, would not suffice entirely to relieve France of anxiety.[1]

2. The Franco-Polish Alliance

The Republic of Poland, like the other succession states, entered the world without fixed boundaries. Certain groups of national patriots in the course of the World War set up so-called governments, which were promptly recognized by the Principal Allied

[1] *Inter-Allied Conferences on Reparations and Inter-Allied Debts*, p. 69–71. (Great Britain, Parliamentary Papers, Miscellaneous No. 3, 1923. Cmd. 1812.) Same texts in French are in Documents Diplomatiques. *Demande de Moratorium du Gouvernement allemand à la Commission des Réparations (14 Novembre 1922). Conférence de Londres (9–11 Décembre 1922). Conférence de Paris (2–4 Janvier 1923)*, p. 76–77.

and Associated Powers and as promptly admitted to the Peace Conference at Paris as the proper representatives of states with limited interests. As the original support of these "governments" was an element in the successful political phase of the war, so their desires at Paris became an element in the settlement that was intended to leave the Central Powers without the capacity for renewing the conflict.

Of the succession states only Poland came in for any considerable share of the territory of the former German Empire. A third of the historic Poland had been in Prussia; but, worse, the Germans and Poles had so intermingled on the borderland that the problem of drawing a proper boundary was almost insoluble. Plebiscite areas were left (Allenstein, Marienwerder, Upper Silesia); the Free City of Danzig was cut out of East Prussia to afford Poland access to the sea; Memel was left in suspension. In a word, very little of the boundary of Poland toward Europe was definitely fixed when the new republic was launched as a member of the family of nations at the Peace Conference.

On the east lay the turmoil of Soviet Russia and the group of Russian states.

No state ever came into the world that knew so little about where its rightful place on the map was.

The almost innumerable odds and ends of territorial adjustment left unfixed by the Peace Conference devolved upon the Conference of Ambassadors sitting at Paris. It soon became apparent that the French representatives in that continuous conference appreciated Polish arguments very fully and were favorable to Polish contentions. Poland reciprocated in friendship.

The publicists of the two countries began to examine their common interests, and to find them similar, especially with reference to Germany, lying territorially between them.

By 1921 there was a notable cordiality between the French and Polish Governments, due to favors received and favors anticipated. On February 4–6, 1921, Marshal Pilsudski, chief of the Polish State, paid a ceremonial visit to Paris. On the second day of that visit, Premier Briand took the unusual step of summoning to him the ambassadors of Great Britain, Italy and Japan and of communicating to them the following joint Franco-Polish declaration:

The two Governments of France and of Poland, equally solicitous to safeguard their safety and the peace of Europe, have recognized, once more, the community of interests which unites the two countries in friendship.

They have agreed to confirm their decision to co-ordinate their efforts, and, with this object, to maintain close contact for the defense of these higher interests.

This constituted an entente cordiale, formally notified to the Principal Allied Powers. It was immediately announced that a commercial treaty guaranteeing certain privileges to French participants in the Galician petroleum industry and in the supply of armaments to Poland was likely to result. It was also forecasted that, in addition to the organization of the Polish army by General Niessel, French administrative experts would be generally employed in fitting out Poland's bureaucratic machine.[1]

Marshal Pilsudski returned direct to Warsaw, his wish to extend his journey to London not having been encouraged in that capital.

Exactly two weeks later the entente cordiale developed into an alliance. On February 19, 1921, the following political agreement was signed:

The Polish Government and the French Government, equally desirous to safeguard, by the maintenance of the treaties which have been signed in common or which shall subsequently be respectively recognized by them, to safeguard the condition of peace in Europe, the security and the defense of their territory as well as their mutual political and economic interests, have agreed as follows:

1. In order to co-ordinate their pacific efforts, the two Governments engage to concert on all questions of external policy interesting the two states and relative to the regulation of international relations in the spirit of the treaties and in conformity with the Covenant of the League of Nations.

2. Economic recovery being the primordial condition for the re-establishment of the international order and the peace of Europe, the two Governments will come to an understanding on this matter with a view to joint action and mutual support.

They will make use for developing their economic relations of special agreements and a commercial convention shall be concluded to this end.

3. If, contrary to the expectations and to the sincerely pacific inten-

[1] *London Times*, February 7, 1921.

tions of the two contracting states, they or one of them saw itself attacked without provocation on their part, the two Governments would act in concert with a view to the defense of their territory and to the safeguarding of their legitimate interests, within the limits specified in the preamble.

4. The two Governments engage to consult each other before concluding new agreements affecting their policy in Central and Eastern Europe.

5. The present agreement will enter into force only after the signing of the commercial agreements at present under negotiation.

PARIS, February 19, 1921.

A. BRIAND.
E. SAPIEHA.

PROCÈS-VERBAL OF EXCHANGE

The undersigned having met to proceed with the exchange of ratifications of the Chief of the Polish State and of the President of the French Republic to the political agreement signed at Paris on February 19, 1921, between Poland and France, the instruments have been produced and having, after examination, been found to be in good and due form, the exchange has been effected.

In faith whereof, the undersigned duly authorized for this purpose, have drawn up the present procès-verbal to which they have affixed their seals.

Done at Paris in duplicate the 27th day of June, 1922.

(L.S.) MAURICE ZAMOYSKI.
(L.S.) POINCARÉ[1].

The Franco-Polish commercial convention was signed at Paris on February 6, 1922. The treaty has some remarkable features and proved to be exceptionally favorable to French commerce. Among its essential provisions are:

ARTICLE 1. "The natural or manufactured products, originating or coming from France, its colonies, possessions or countries under French protectorates shall be admitted on their importation into Poland to the benefit of the most favorable tariff which the Polish Government grants or may grant to any third power or to the nationals of any third power."

By Art. 2 certain articles are to benefit by reduced percentages from the Polish tariff. The list comprises fancy food-stuffs and

[1]Translated from *Dziennik Ustaw Rzeczypospolitej polskiej*, 1922, p. 1116–1117.

articles of luxury in the main, along with machinery and other standard articles of commerce, such as dry goods.

By Art. 3, Polish products, chiefly meats and grains, "shall be admitted on importation into France or French possessions but not the protectorates to the benefit of the minimum tariff both as regards present import duties and surtaxes or other temporary increases." Polish products in another list, forage, metals, porcelains, threads, and small machinery, shall benefit by a reduction from the regular tariff in stated percentages.

The remainder of the convention is reciprocal and deals with the usual commercial matters.

The alliance involved an advance to Poland of 400,000,000 francs. The agreement to this end was signed March 23, 1921, but was put into effect very slowly. It was not until December 9, 1922, that the project of law was reported to the Chamber, six months after the ratification of the alliance. The matter came before the Chamber on February 15, 1923, six weeks after the French entrance into the Ruhr. Though the project of law registered a vote of 487 against 62, it resulted in a fairly interesting debate. Fernand Engerand raised doubts about the repayment of the loan, saying that Poland's debt was already 283,000,000 dollars and in his opinion the present share of that, as well as the debts due from Rumania and Czechoslovakia were morally irrecoverable. He suggested that the present Polish debt be stricken off the books. Premier Poincaré agreed with him respecting war debts and added that "the day when our creditors forgive us our debts we will not hesitate to forego our credits against our allies." The opposition point of view was expressed by Marius Moutet, a Socialist deputy. "When I hear talk of mutual aid in case of unprovoked aggression, I have the right to feel disturbed," he said. "We are opposed to this new progress of armament which puts Europe to-day in the same dangers as in 1914." This brought a retort from Premier Poincaré, and the overwhelming vote in favor of the loan was then recorded.[1]

[1] *Le Temps*, February 17, 1923, p. 3.

III. THE LITTLE ENTENTE

1. Origin and Purpose

The official account of the origin of the Little Entente is found in the introduction to the Czechoslovak White Book on the Little Entente:

"The foundation for the political understanding between the South Slavs and the peoples of Rumania and Czechoslovakia was laid in the period before the war. In those days hundreds of thousands belonging to those races were groaning under the yoke of the German and Magyar minority in Austria. On this account it was inevitable that they should have a common national and political goal, as well as a common national and political program.

"The close community of their vital interests was fully revealed during the World War. The South Slavs, the Rumanians and the Czechoslovaks rode against Austria-Hungary and fought together on the side of the allies, with the object of attaining complete freedom from the Austro-Hungarian yoke and with the aim either of being reunited with the peoples to whom they were racially related or of being recognized as independent national entities. This common aim was particularly exemplified during the struggle in the Dobrudja, where South Slav and Czech volunteers fought on the side of the Rumanian army.

"Moreover, the leaders of the South Slav, Rumanian and Czechoslovak cause abroad were in complete understanding with the principal agents of the Serbian and Rumanian Governments. Complete emancipation of the small nations of Central Europe was the purpose of the movement and the goal toward which their combined efforts were directed. This principle had often been propounded in theory and had been most clearly set forth in writing by the first President of the Czechoslovak National Council abroad, Professor Masaryk. More than once there were international manifestations in favor of this principle, not only at home (such as the one in Prague in 1918), but also in other countries (for example, at the congress of subject races at Kiev in 1917 and at Rome and Washington in 1918).

"The early struggles together were not in vain, for the common aim was realized,—all portions of these races being united, and

the national states of the Serb-Croat-Slovene State, Rumania and Czechoslovakia being established.

"It was inevitable that they should continue to work together, not only when the boundaries and the responsibilities of the new states were being discussed at the Peace Conference, but later as well. It was essential to demonstrate the vitality of the new Central European system set up by the peace treaties; it was necessary to strengthen this system, above all by economic co-operation; it was finally most urgent that it be so strongly established as to become a firm foundation for peace in Europe.

"These aims were threatened by two things—first, by the Magyar theory of the integrity of Hungary; second, by the attempts of the Hapsburgs to regain their throne. The need of offsetting these opposing elements led the Serb-Croat-Slovene State, the Kingdom of Rumania, and the Republic of Czechoslovakia to unite even more closely and these closer relations were given formal expression in the defensive alliances formed by them."

When the Hungarians proclaimed the treaty of Trianon the treaty of peace, in their official gazette, they put black borders around every page of it, ordered the flags at half staff, and by way of treaty maps published a dismembered picture of prewar Hungary headed by the slogan "Nem, nem, soha" (No, no, never). Then they put the plates of that map on the presses and ran off copies for every school in the country. Twice a day the children stand at salute before that map and recite a credo, which begins with "I believe in the justice of God" and ends with "I believe in the resurrection of Hungary."

The "resurrection" of Hungary would mean that Czechoslovakia would lose its eastern extension; that Rumania would lose Transylvania; and that the Serb-Croat-Slovene State would lose a good deal after the first hyphen. Hungary is royalist; its ruler since a temporary indulgence in Bolshevism has been a "regent" and the Government designates itself as "royal." Royalty requires a dynasty, and the last dynasty in Hungary was that of the Hapsburgs. The late Emperor-King Charles of Austria-Hungary was also the hereditary ruler of all of Czechoslovakia and of whatever territory that, formerly belonging to the Austro-Hungarian Monarchy, became either Rumanian or Serb-Croat-Slovene by the peace treaties.

Objectively the situation in 1920, when the treaties of peace came into force, was that any effort to reconnect the old parts of the old Austro-Hungarian Monarchy would have meant the dismemberment of Czechoslovakia, Rumania and the Serb-Croat-Slovene State as then constituted. The transferred populations had been notoriously unhappy under the old régime; and at that time they had not been long enough under a new régime to know whether it would really make for happiness. Also, it was a foregone conclusion that any Hapsburg who got seated on a throne would immediately use it as coign of vantage from which to attempt the reconstruction of what used to be. Under these conditions the Little Entente took form.

The admission of Hungary to the League of Nations by vote of the Assembly on September 18, 1922, fundamentally changed the Budapest Government's relation to the Little Entente. The members of that group were the only ones that raised any question respecting the advisability of favorable action upon the Hungarian application. In committee they had raised that point and had received a formal declaration from Hungary of her sincere intention to fulfill "all her international obligations in accordance with treaties or acts subsequent to their signature," a declaration specifically including engagements respecting the Hapsburg dynasty. The Little Entente states voted for the admission. Their action had the effect of recording them as of the belief that Hungary would not provide the *casus foederis* of the alliances. The Little Entente therefore is now to be regarded as a concert with respect to general policy rather than a military alliance.

2. Czechoslovak-Jugoslav Alliance

Edouard Benesh, the foreign minister of Czechoslovakia since its establishment as a state, may be regarded as the father of the Little Entente. It was he who first conceived the necessity of the succession states co-operating closely not only to maintain their position as created by the treaties of peace, but in political, social and economic fields as well.

The exact circumstances of the preliminary negotiations are of historical interest only; but once they had begun a number of problems arose. What was to be the essential formula of the

treaty? A defensive alliance against Hungary was decided upon, apparently a flareback to a system in bad odor. Moreover, both Czechoslovakia and the Serb-Croat-Slovene State, between which negotiations were proceeding, were members of the League of Nations. By Art. 20 of the Covenant they "solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof." On the other hand, the Covenant itself clearly provided that aggression should not take place under any circumstances. The treaty was negotiated with these pledges in view. To be doubly sure, the text was submitted to the League of Nations immediately after signing, instead of after ratification, as is customary in cases of registration. League opinion was to the effect that nothing in the Covenant prevented member states from making arrangements to insure peace; but that, in general, the pledges taken in the Covenant should be regarded as essential and should not be overlooked. However, an arrangement to resist an attack by a state not a member of the League, and consequently not bound by the terms of the Covenant, was to be regarded as complementary to it, provided the Covenant's provision for investigation, report, arbitration or judicial decision were practiced in advance of its operation.

The first treaty of the Little Entente was signed on behalf of Czechoslovakia and the Serb-Croat-Slovene State at Belgrade on August 14, 1920. Technically it is a defensive alliance for two years. In terms it has a directness superior to any document of the same character negotiated in the last century. The actual experience under it was satisfactory. Its full text follows[1]:

CONVENTION OF ALLIANCE BETWEEN THE KINGDOM OF THE SERBS, CROATS AND SLOVENES AND THE CZECHOSLOVAK REPUBLIC, SIGNED AT BELGRADE, AUGUST 14, 1920.

Firmly resolved to maintain the peace obtained by so many sacrifices, and provided for by the Covenant of the League of Nations, as well as the situation created by the treaty concluded at Trianon on June 4, 1920, between the Allied and Associated Powers on the one hand and Hungary on the other, the President of the Czechoslovak Republic and

[1]League of Nations, *Treaty Series*, VI, 209. The convention was registered with the League Secretariat on August 30, 1921. The ratifications were exchanged at Belgrade on February 10, 1921.

His Majesty the King of the Serbs, Croats and Slovenes have agreed to conclude a defensive Convention.

For this purpose, they have nominated as their Plenipotentiary Delegates:

For the President of the Czechoslovak Republic:

M. Edouard Benes, the Minister for Foreign Affairs;

For his Majesty the King of the Serbs, Croats and Slovenes:

M. Momtchilo Ninchich, Doctor of Law, Minister of Commerce and Industry, and acting Minister for Foreign Affairs,

who, having exchanged their full powers and found them to be in good and due form, have agreed as follows:

Article 1. In case of an unprovoked attack on the part of Hungary against one of the High Contracting Parties, the other Party agrees to assist in the defense of the Party attacked, in the manner laid down by the arrangement provided for in Art. 2 of the present Convention.

Art. 2. The competent technical authorities of the Czechoslovak Republic and the Kingdom of the Serbs, Croats and Slovenes shall decide, by mutual agreement, upon the provisions necessary for the execution of the present Convention.

Art. 3. Neither of the High Contracting Parties shall conclude an alliance with a third power without preliminary notice to the other.

Art. 4. The present Convention shall be valid for two years from the date of the exchange of ratifications. On the expiration of this period, each of the Contracting Parties shall have the option of denouncing the present Convention. It shall, however, remain in force for six months after the date of denunciation.

Art. 5. The present Convention shall be communicated to the League of Nations (Covenant of the League of Nations).

Art. 6. The present Convention shall be ratified, and the ratifications shall be exchanged at Belgrade, as soon as possible.

In witness whereof, the Plenipotentiaries named have signed and have affixed their seals thereto.

Done at Belgrade, in duplicate, August 14, 1920.

(Signed) Mom. Ninchich. (Signed) Dr. Edouard Benes.

The alliance was supplemented by a military convention signed at Prague on August 14, 1921, two weeks before the registration of the main convention with the League of Nations. The text of this is not available—military conventions have to be secret to be useful, for to publish their terms is simply to tell the prospective enemy what he must resist to win. But a competent summary

describes it as giving "a concrete and final form to the agreement of the two states respecting the technical measures which must insure the execution of the alliance. This convention puts at the disposal of the two states forces sufficient for their security. A plan of common campaign and a unified command are to be prepared in prospect of any eventuality. Moreover, since every conflict by armed forces requires mutual economic support between allies, the military convention provides for preparing the ground for an intensive economic collaboration in time of peace."[1]

The two Governments participated, along with others of the succession states, in a conference at Marienbad in August, 1922, at which some comparison of notes was made with a view to co-ordinating their policy with respect to Austrian reconstruction, the matter of Hungary's application to the Third Assembly of the League of Nations and other questions of the moment. In the course of that meeting the Governments renewed their 1920 convention by a convention extending its duration. The convention of Marienbad was negotiated on broader terms than its predecessor and more definitely emphasizes co-operation between the Czechoslovak and Serb-Croat-Slovene Governments. Its text follows[2]:

The Governments of the Czechoslovak Republic and the Kingdom of the Serbs, Croats and Slovenes, desirous of prolonging the agreement concluded between them on August 14, 1920, and of completing it by new provisions having as their object:

(*a*) the strengthening and maintenance of peace,

(*b*) the consolidation and extension of the political and economic bonds between the two states,

have accepted, in common agreement, the articles which follow:

To these ends, they have appointed as plenipotentiaries:

By the President of the Czechoslovak Republic, His Excellency Dr. Edouard Benesh, President of the Council of Ministers and Minister for Foreign Affairs;

By His Majesty the King of the Serbs, Croats and Slovenes, His Excellency, Mr. Nik P. Pachitch, President of the Council of Ministers,

who, after having exchanged their full powers, found in good and due form, have agreed:

[1]*Le Temps*, August 15, 1921.

[2]Translated from *L'Europe nouvelle*, May 5, 1923, p. 570.

ARTICLE 1. The agreement concluded between the Czechoslovak Republic and the Kingdom of the Serbs, Croats and Slovenes, on August 14, 1920, at Belgrade, is prolonged for the same duration as the present convention.

ART. 2. The high contracting parties take note on the one hand of the political and military treaties and agreements concluded by the Czechoslovak Republic with Rumania, Austria and Poland, and on the other hand, of similar agreements concluded by the Kingdom of the Serbs, Croats and Slovenes with Rumania and Italy.

ART. 3. The high contracting parties will endeavor to establish all their economic and financial relations and those relating to means of transportation upon a firm foundation, and to this end mutually assure each other the closest collaboration; for this purpose they conclude special arrangements, particularly a treaty of commerce in accordance with this object.

ART. 4. The two high contracting parties engage to lend each other political and diplomatic support in their international relations. In the event that they believe their common interests are menaced, they engage to concert the measures proper to safeguard them.

ART. 5. The competent authorities of the Czechoslovak Republic and of the Kingdom of the Serbs, Croats and Slovenes will come to an understanding with a view to taking all the measures necessary for the application of the present convention.

ART. 6. The present convention shall remain in force five years from the date of the exchange of the instruments of ratification.

At the expiration of this five years, each of the high contracting parties will be at liberty to denounce the present convention, six months' previous notice being given to the other party.

ART. 7. The present convention shall be ratified and the instruments of ratification exchanged as soon as possible at Belgrade.

ART. 8. The present convention shall be communicated to the League of Nations.

In faith whereof the two plenipotentiaries have signed the present convention and have affixed their seals thereto.

Done in duplicate at Marianské Lazné on August 31, 1922.

(Signed) EDOUARD BENESH.
(Signed) NIK P. PACHITCH.

The two states signed a treaty with regard to the provisional settlement of commercial relations at Prague on October 18, 1920, the exchange of ratifications of which did not take place until April 5, 1923. It was registered with the League of Nations Secretariat on May 19, 1923, No. 424.

3. Rumania and Czechoslovakia

Rumania on the east side of Europe, allied with the Central Powers as a silent partner in the Triple Alliance since October 30, 1883, had eventually declared war against them on August 27, 1916, and had had imposed upon her the peace of Bukharest of May 7, 1918. As one of the Allied and Associated Powers she was a great beneficiary of the armistices, which canceled that treaty, while from the settlement with Hungary she gained the rich territory of Transylvania. About the same time Rumanian troops swept over Hungary up to Budapest and carried away rolling stock, goods, objects of art, valuables of all kinds, despite the firm and solemn orders of the Principal Allied and Associated Powers to the contrary. As a result the latter made provision in the Hungarian peace treaty for crediting Hungary on reparation account with values still undetermined but claimed by the Hungarians to be more than $1,000,000,000. Also about that time Rumania absorbed the Russian province of Bessarabia, which had been awarded to Russia at the expense of Turkey in 1878.

Rumanian territory having doubled under these kaleidoscopic circumstances, her statesmen felt the need of consolidating the new position. Just after the Governments of Prague and Belgrade signed their alliance, Rumania agreed orally to it, but refrained from signing it because she insisted upon bringing Poland and Greece also into the alliance. A Rumanian statesman speaking on November 18, 1920, put the situation this way:

> To Rumania, Hungary is no more a great danger. Rumania can be threatened in the future only from the east; in this case the only country which could form one front with her would be Poland. On the other hand, Rumania's interests require that the Dardanelles be opened for Rumanian vessels; hence the necessity of an understanding with Greece. Certainly Rumania is extending in exchange to both of these countries a protection equal to their services.
>
> We are insisting on forming this Central European alliance, extending from the Baltic to the Black Sea and to the Mediterranean on the one hand, in order to stop the sweeping westward of the Russian anarchy, and on the other hand in order to establish order and keep peace in Central and Southeastern Europe and to prevent in the future the interference of some greater powers with these countries' interests. Although

the treaty is not signed yet, Rumania considers herself a member of the Little Entente, and it is certain that she will sign. Take Jonesco, the minister of foreign affairs, in all his statements in Rome, London, Paris and Prague, considered the alliance as an accomplished fact.

The Rumanian policy was not realized in the form of a single treaty. Czechoslovakia, with which the first alliance was signed, declined to go beyond the scope of its arrangement with the Serb-Croat-Slovene State, and the convention of alliance signed at Bukharest on April 23, 1921, as a consequence took a less ambitious form[1]:

CONVENTION OF ALLIANCE BETWEEN THE KINGDOM OF RUMANIA AND THE CZECHOSLOVAK REPUBLIC, SIGNED AT BUKHAREST, APRIL 23, 1921.

Firmly resolved to maintain the peace obtained by so many sacrifices, and provided for by the Covenant of the League of Nations as well as the situation created by the treaty concluded at Trianon on June 4, 1920, between the Allied and Associated Powers on the one hand, and Hungary on the other,

the President of the Czechoslovak Republic and His Majesty the King of Rumania, have agreed to conclude a defensive convention.

For this purpose they have nominated their Plenipotentiary Delegates:

For the President of the Czechoslovak Republic:

M. Ferdinand Veverka, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic at Bukharest;

For His Majesty the King of Rumania:

M. Take Jonesco, his State Minister for Foreign Affairs,

who, having exchanged their full powers and found them to be in good and due form, have agreed as follows:

ARTICLE 1. In case of an unprovoked attack on the part of Hungary against one of the High Contracting Parties, the other party agrees to assist in the defense of the party attacked, in the manner laid down by the arrangement provided for in Art. 2 of the present Convention.

ART. 2. The competent technical authorities of the Czechoslovak Republic and Rumania shall decide by mutual agreement and in a military convention to be concluded, upon the provisions necessary for the execution of the present Convention.

[1]League of Nations, *Treaty Series*, VI, 215. The exchange of ratifications took place at Bukharest on May 27, 1921, and the convention was registered with the League Secretariat on August 30, 1921.

ART. 3. Neither of the High Contracting Parties shall conclude an alliance with a third power without preliminary notice to the other.

ART. 4. For the purpose of co-ordinating their efforts to maintain peace, the two Governments undertake to consult together on questions of foreign policy concerning their relations with Hungary.

ART. 5. The present Convention shall be valid for two years from the date of the exchange of ratification.[1] On the expiration of this period, each of the Contracting Parties shall have the option of denouncing the present Convention. It shall, however, remain in force for six months after the date of denunciation.

ART. 6. The present Convention shall be communicated to the League of Nations (Covenant of the League of Nations).

ART. 7. The present Convention shall be ratified, and the ratifications shall be exchanged at Bukharest as soon as possible.

In witness whereof, the Plenipotentiaries named have signed the present Convention and have affixed their seals thereto.

Done at Bukharest in duplicate, April 23, 1921.

(L.S.) (Signed) Dr. FERDINAND VEVERKA.
(L.S.) (Signed) TAKE JONESCO.

A communiqué issued at Prague on May 7 stated:

With reference to the fact that the defensive convention of alliance concluded between the Kingdom of Rumania and the Czechoslovak Republic on April 23, 1921, will soon expire and since this treaty is recognized as advantageous to the maintenance of peace, the two Governments have decided to prolong it. Following appropriate negotiations between the Prague and Bukharest cabinets, the protocol prolonging the treaty for an additional three years was signed at noon, May 7, 1923, at the Ministry of Foreign Affairs at Prague by the respective plenipotentiaries, Mr. P. Hiott, ambassador extraordinary and minister plenipotentiary of His Majesty the King of Rumania in Prague, and Dr. Benesh, the minister for foreign affairs of the Czechoslovak Republic.[2]

A commercial convention between the two states was signed simultaneously with the convention on April 23, 1921, the exchange of ratifications of which took place at Prague on March 10, 1923. It was registered with the League of Nations on March 28, 1923, No. 397.

[1]That is, until May 27, 1923.

[2]*Prager Presse*, May 8, 1923, Morgen-Ausgabe.

4. Rumania and the Serb-Croat-Slovene State

The Rumanian minister for foreign affairs, Take Jonesco, next approached the Serb-Croat-Slovene State. Both Hungary and Bulgaria had lost more than they liked to admit to Rumania and Jugoslavia by the peace treaties. When Bukharest and Belgrade came to discuss their arrangements, they included Bulgaria as an object of the treaty. The Rumanian-Jugoslav defensive convention corresponds in other respects with the one signed by Rumania with Czechoslovakia. It was concluded at Bukharest on July 2, 1921, and reads:

Firmly resolved to maintain the peace won at the cost of so many sacrifices and the order established by the treaty of Trianon concluded on June 4, 1920, between the Allied and Associated Powers on the one part and Hungary on the other, as well as the treaty concluded at Neuilly on November 27 between the same powers and Bulgaria, His Majesty the King of the Serbs, Croats and Slovenes and His Majesty the King of Rumania are in agreement to conclude a defensive convention.

Article 1. In case of an unprovoked attack by Hungary or Bulgaria or by these two powers against one of the contracting parties, with a view to subverting the order created by the treaty of Trianon or that of Neuilly, the other party engages to go to the defense of the party attacked in the manner determined by Art. 2 of this convention.

Art. 2. The competent technical authorities of the Kingdom of the Serbs, Croats and Slovenes and of Rumania shall fix in common agreement within the shortest time, the dispositions necessary for the execution of the present convention.

Art. 3. Neither of the high contracting parties shall be able to conclude an alliance with a third power without the previous advice of the other.

Art. 4. With a view to associating their efforts for peace, the two Governments pledge themselves to concert with each other on the questions of external policy concerning their relations with Hungary and Bulgaria.

Art. 5. This convention shall remain in force for two years from the date of the exchange of ratifications. After the expiration of this period either of the contracting parties may denounce this convention. It shall then remain in force six months after denunciation.

Art. 6. This convention shall be communicated to the League of Nations (Covenant of the League of Nations).

Art. 7. The present convention shall be ratified and the ratifications shall be exchanged as soon as possible.

Take Jonesco. Nikolas Pachitch.

IV. THE HAPSBURG RESTORATION MOVEMENT

The Hapsburg restoration movement has already been referred to as a makeweight in the formation of the Little Entente. It was the chief reason why the Little Entente treaties took the form of alliances directed against Hungary, which had a vacant throne. The possibility of a Hapsburg regaining that throne was perhaps never very great, but it seemed for many months to be a genuine menace to the new position of the succession states. For two years it gave direction to the policy of those states. The Czechoslovak declaration of independence, for instance, had called the Hapsburgs a "degenerate and irresponsible dynasty," "a perpetual menace to the peace of the world, the fall and destruction of which we consider a duty toward humanity and civilization to insure."

On November 11, 1918, the Emperor Charles IV renounced the throne of Austria, and on November 13 at Eckartsau the Hungarian crown of St. Stephen.

After the Bolshevik interlude of Bela Kuhn in Hungary during the summer of 1919, the Archduke Joseph of Hapsburg came into power in August. Charles wrote him on August 14 from Switzerland: "I am still king"; and claimed his rights as sovereign. At that time the treaty of peace with Hungary was scarcely begun and Hungary was still under armistice conditions. Benesh of Czechoslovakia sent a long historical review to the so-called Supreme Council calling upon it to "prevent in Hungary the return to power of a government dangerous to the vital interests" of his country. On August 21 the Supreme Council told Hungary that it would not treat with a government set up under the control of a Hapsburg. In January, 1920, the formal negotiations for the treaty of Trianon began. Hapsburg agitation continued in Hungary. The Conference of Ambassadors spoke for all the victors in a declaration of February 4, 1920, which stated:

> The Principal Allied Powers believe it necessary to give a formal denial to the rumors which are current and which are calculated to mislead public opinion. They are represented as ready to recognize or to favor the establishment of the Hapsburg dynasty upon the throne of Hungary. The Principal Allied Powers believe that the restoration of a dynasty which personifies in the eyes of its subjects a system of oppression

and domination of other races, in alliance with Germany, would not be compatible either with the principles for which they fought or with the results which they were able to secure through the war for the liberation of peoples formerly subservient. It is not within their intention to regard it as the duty of the Principal Allied Powers to intervene in the internal affairs of Hungary or to dictate to the Hungarian people the form of government or constitution which it should adopt for itself. However, the powers cannot admit that the restoration of the Hapsburg dynasty should be regarded as a question affecting only the Hungarian nation. They therefore declare that a restoration of this nature would be contrary to the very bases of the peace settlement and would be neither recognized nor tolerated by them.

On February 5 it was proposed by Jugoslavia that she, Czechoslovakia, Rumania and Austria make a collective representation to the so-called Supreme Council. The declaration of the previous day rendered this unnecessary, but there resulted a preliminary agreement to act later if occasion should arise.

1. Italy and the Serb-Croat-Slovene State

Among the first postwar negotiations were those undertaken by Italy and the Serb-Croat-Slovene State primarily for the settlement of the Fiume problem. That long and bitter controversy involved not only the relations between the possessors of the shores of the Adriatic Sea, but the general position which they would hold in Europe by reason of outlets to the sea. The negotiations were, therefore, keen, and their scope was gradually extended until all questions of common concern were brought within it. Finally, at Santa Margherita on October 22, 1922, a main convention and twenty-one supplementary ones were signed by the two states.

The initial effort, however, dealt only with the pressing questions then to the fore. The first agreement reached was effected at Rapallo on November 12, 1920, and determined boundaries. In addition there was signed on the same day a convention by which the two states pledged themselves to prevent a Hapsburg restoration. The convention reads[1]:

In order to secure the blessings of peace, obtained at the price of such great sacrifices through victory over the Austro-Hungarian Monarchy,

[1]Translated from *Negoziati diretti fra il Governo italiano e il Governo serbo-croato-sloveno per la pace adriatica*, p. 39.

the Government of His Majesty the King of Italy and the Government of His Majesty the King of the Serbs, Croats and Slovenes have determined to agree to the present convention and to this end have appointed:

On behalf of the Italian Government, the Cavaliere Giovanni Giolitti, President of the Council of Ministers; Count Carlo Sforza, Minister of Foreign Affairs; and Professor Ivanoe Bonomi, Minister of War;

On behalf of the Serb-Croat-Slovene Government, M. Milenko R. Vesnich, President of the Council of Ministers; Dr. Ante Trumbich, Minister of Foreign Affairs, and M. Costa Stojanovich, Minister of Finance, who have agreed as follows:

Article 1. The two contracting Governments mutually engage to keep watch over the strict execution of the treaties of peace signed at Saint Germain and Trianon. In particular, they will adopt by common agreement all measures of policy calculated to prevent the restoration of the House of Hapsburg to the throne of Austria and of Hungary.

Art. 2. The two contracting Governments engage to give one another such mutual diplomatic support as they shall deem to be best adapted to this end.

Art. 3. In accordance with the spirit of the present convention, the two contracting Governments engage at the same time to keep a watch upon all activities directed against their mutual security, both on Austrian and on Hungarian territory, and to maintain close touch with each other by means of the exchange of information.

Art. 4. The Italian Government (which has learned with satisfaction of the agreement established between the Serb-Croat-Slovene Government and the Czechoslovak Government, the aims of which are exclusively those of the present convention) and the Serb-Croat-Slovene Government will communicate the present convention to the Czechoslovak Government.

If fresh agreements of the same kind are concluded, the two Governments will confer before putting them into effect.

Art. 5. The present convention shall remain in force for two years after the exchange of ratifications. It shall be renewable for the same period if it has not been denounced six months before its expiration.

Art. 6. The present convention shall be ratified as soon as possible and the ratification shall be exchanged at Rome.

Rapallo, November 12, 1920.

Signed [L.S.] Giovanni Giolitti.
" C. Sforza.
" Ivanoe Bonomi.
" Mil. R. Vesnich.
" Dr. Ante Trumbich.
" Costa Stojanovich.

2. Charles IV and the Hungarian Throne

On March 27, 1921, Charles of Hapsburg arrived at Szombathely in Hungary on an expedition having the Hungarian throne as its objective. Admiral Horthy, the regent, was unfavorable to the move. The representatives of Italy, France and Great Britain at Budapest made strong protests to the Hungarian Government, before those of Czechoslovakia, Jugoslavia and Rumania—then in the Little Entente—got around to it. The latter group, however, took the occasion to act on the principle they had at heart, namely, that Central European affairs were to be handled by them rather than by the bigger states.

By March 30 Benesh was able to tell Rome, Paris and London that "in agreement with the friendly states we shall take all measures to secure the immediate departure of Charles.... As to means, there will first be a declaration of blockade, and secondly, a military demonstration." The next day the Conference of Ambassadors blanketed this move by another statement, and at Budapest the representatives of the big states secured a delay in presenting the ultimatum of the Little Entente, meanwhile pressing themselves for the departure of Charles from Hungarian territory. This departure took place on April 5, before the Little Entente note had been delivered. That group did not like the idea that the world got as a consequence that the big states were heading off the attempted *coup d'état;* nor did they relish the impression gained that France and Great Britain regarded themselves as the chief players in Central and Southeastern Europe.

The Treaty of Trianon establishing peace with Hungary was signed on June 4, 1920, and came into force on July 25, 1921.

On October 22, 1921, ex-King Charles arrived at Oedenburg on his second expedition. The Little Entente this time took the lead in protest. The Czechoslovak note to all capitals on the same day informed the foreign offices that

> the presence of the ex-king on Hungarian soil is a *casus belli.* We are proceeding immediately with preparations for mobilization and shall not hesitate to take the most energetic measures, in common accord with the other members of the Little Entente.

This energetic action aligned Italy with the Little Entente on the 24th, and on the same day brought a decision from the Con-

ference of Ambassadors, technically in charge of the execution of the treaty of Trianon. The position gained by the Little Entente at that time was indicated in the last paragraph of the note communicating the decision of the conference:

> I have the honor, in the name of and on behalf of the conference, to tell you that the allied powers firmly count that, in a situation so serious, the Czechoslovak Government and the other Governments of the Little Entente will reach no decision and will undertake no action before reaching an agreement with the allied powers represented in the conference.

The Little Entente took the advice for what it was worth in the direction of peace, disregarding its dictatorial quality. The small states were not anxious for military adventure, and the attitude of Hungary was reassuring to them. Horthy interned Charles in the convent of Tihany and began negotiations with the big states to turn him over to them for his final exile in the Azores.

Benesh and his colleagues were not willing to let those states, the "powers," settle a Central European affair at their own election. The time and circumstances were not suitable for telling them to keep hands off, but it was quite possible to reduce them to agents of the principles. It was set out to keep the "great allied powers" in their proper place.

On October 26 Benesh wrote to Paris, London and Rome:

> We insist that the Entente admit our fundamental point of view, namely, that the simple elimination of the ex-emperor and eventually of his son cannot be regarded as the final solution. . . . It is desirable that we should collaborate in the disarmament of Hungary, that the states of the Little Entente should be systematically informed of the progress of disarmament.

A subcommission appointed by them was proposed to act as an auxiliary to the allied commission provided in the treaty of Trianon. And then follows a neat diplomatic notice: "We do not intend to affect the prestige of the Big Entente or to disregard its rights." Which is the discreet way of saying: "We do not intend to see the prestige of the Little Entente affected or to see its rights disregarded."

The precise demands of the Little Entente were for the total elimination of the Hapsburg family from all possible thrones and for the repayment of mobilization expenses. The big states event-

ually accepted the first demand. The second demand was a different case. The Little Entente was agreed upon it, but only Czechoslovakia actually had such expenses. In the note of the Conference of Ambassadors of November 3, reporting its decisions, that body says on this point:

> After an examination as careful as sympathetic, it has determined, in spite of the new arguments you invoke, that it could not find any juridic basis for your claim. The conference, moreover, deems it necessary to call your attention to the fact that, even if its juridical character were established, the resulting credit would perforce take rank after all those contemplated by the peace treaty and intrusted to the Reparation Commission.

The precedent for Czechoslovakia's claim of mobilization costs from defeated Hungary, a claim based on upholding the terms of a treaty of peace, was the French mobilization prior to May 1, 1921, as a preparation to force Germany to sign the schedule of reparation payments. None of the other allies at that time followed the French example. France put in a bill to the Reparation Commission for 188,000,000 paper francs, which the commission declined to pass for payment. On March 8, 1922,—four months after the refusal of Czechoslovakia's bill,—the commission referred the question to the allied finance ministers, then in conference. They, "in the name of their Governments found that Germany should reimburse these expenses." On March 11 in an agreement upon reparation matters they made it general:

> In the event of special military measures of a precautionary or coercive character being decided upon by the allied powers, the resulting expenses shall be claimed from Germany.

The Little Entente would like to know how it happens that when it takes military measures of a precautionary character against Hungary there is no juridical basis for claiming reimbursement, but that when France does the same against Germany there seems to be no difficulty about reimbursement. Such incidents have considerably cooled any ardor the smaller states may have had for dependence upon the big continental states in matters of foreign policy.

The Hungarian Government on November 3, 1921, passed the law abrogating the sovereignty of Charles IV and canceling the

Pragmatic Sanction regulating the rights of the Austrian dynasty. Czechoslovakia was not satisfied with this and both Budapest and Paris were informed that "it is not clear that the Hapsburgs could not be elected by a free balloting in which they were passive candidates." This declaration should be secured. On November 5 the Conference of Ambassadors made this demand. On November 10 Baron Bánffy for the Hungarian Government communicated a declaration which stated:

> In order to insure more effectively the intentions of the law and to safeguard the responsibility of the Government, Hungary has the intention of making a law which, in addition to the penal provisions now in force, will allow it to combat effectively any attempt or any propaganda in favor of the Hapsburgs or of any other person whose candidature would not fall within the terms of the provisions above mentioned.

The Conference of Ambassadors regarded this as "an international act, providing on that account more positive guaranties than an internal law of the state, which would always be subject to revision." This correct interpretation was promptly accepted by the Little Entente, and the Hapsburgs[1] may from that date, November 15, be regarded only as a part of history.

[1]The series of the international engagements undertaken by Hungary in connection with the Hapsburg dynasty was presented to the League of Nations Secretariat and registered on February 24, 1923, No. 387.

V. THE RUSSIAN "SANITARY CORDON"

When the Bolshevist Socialists secured control of the Russian machinery of government in November, 1917, the membership of that country in the alliance of September 4, 1914, which was the nucleus of the combination that defeated the central powers, came to an end *de facto*. The western powers, however, maintained a theory that it still existed. In the armistices, they imposed upon Germany and the other ex-enemy states the renunciation of all advantages secured by the Brest-Litovsk and Bukharest treaties and, in a spirit of loyalty to the 1914 alliance, made efforts in the treaties of peace to reserve all Russian rights intact.

The *de facto* Soviet Government of Russia was not enabled to profit by this reservation. The European powers aided ineffectively various Russian leaders, such as Yudenich, Wrangel and Kolchak in attempts to establish a standard form of government in Russian territory. The resulting situation had certain novel features. The Soviets voluntarily, even enthusiastically, acknowledged all the offshoots of the Russian Empire, such as Esthonia, Latvia and Lithuania, Poland and the Ukraine; and began determining boundaries by means of hostilities. The secret of Bolshevist policy is its nonterritorial character. It disregards the mere color of a land on the map and emphasizes the color of the mentality of the people inhabiting it.

Soviet diplomacy has been characterized by a certain generosity in respect to the customary matters on which states set store and by an extreme hardness on matters connected with communist theories. It has without exception sought to commit those with whom it dealt internationally to its peculiar economic ideas, and in doing so has disregarded the normal agencies of the state in an effort to reach the individual's mind. Those countries which have been able to protect themselves from the ulterior purposes of the Soviets have been able to get very good political bargains in agreements with them.

The Soviet activities, direct or indirect, have resulted in several alignments since the World War, in addition to the treaties of peace with Russia negotiated by the boundary states.

1. The Polish-Rumanian Alliance

Most important among the alignments enjoined by the existence of the Soviet Government is the Polish-Rumanian alliance, which has a certain connection with the Franco-Polish alliance. Poland was approached by Rumania in 1920 to make an alliance in view of their common position on the Russian border. The Rumanian conception was broader than that, a series of allies from the Baltic to the Balkans, plus Czechoslovakia and the Serb-Croat-Slovene State. Czechoslovakia was unwilling to be a link in this chain and Jugoslavia was reluctant to join it. Poland and Rumania, however, found common interests numerous and Rumania lent considerable moral support to Poland during the negotiation of the latter's treaty of peace with the Soviets. Poland regarded close relations with France as paramount, and an alliance in that quarter was effected in February, 1921. The Polish-Rumanian negotiations then speedily came to a conclusion and on March 3, 1921, the following convention was signed[1]:

Convention for a Defensive Alliance between the Polish Republic and the Kingdom of Rumania, signed at Bukharest, March 3, 1921

Being firmly resolved to safeguard a peace which was gained at the price of so many sacrifices, the Chief of State of the Polish Republic and His Majesty the King of Rumania have agreed to conclude a Convention for a defensive alliance.

For this purpose they have named as their plenipotentiaries:

For the Chief of the State of the Polish Republic:
Prince Eustache Sapieha, his Minister for Foreign Affairs; and
For His Majesty the King of Rumania:
M. Take Jonesco, his Minister for Foreign Affairs,

who, after exchanging their full powers, found in good and due form, agreed to the following articles:

Article 1. Poland and Rumania undertake to assist each other in the event of their being the object of an unprovoked attack on their present eastern frontiers.[2]

Accordingly, if either state is the object of an unprovoked attack, the other shall consider itself in a state of war and shall render armed assistance.

[1]League of Nations, *Treaty Series*, VII, 79. The ratifications were exchanged at Bukharest on July 25, 1921, and the convention was registered with the League Secretariat by Poland on October 24, 1921.

[2]See Protocol A, 1, below.

ART. 2. In order to co-ordinate their efforts to maintain peace, both Governments undertake to consult together on such questions of foreign policy as concern their relations with their eastern neighbors.

ART. 3. A military convention shall determine the manner in which either country shall render assistance to the other should the occasion arise.

This convention shall be subject to the same conditions as the present Convention as regards duration and denunciation.

ART. 4. If in spite of their efforts to maintain peace, the two states are compelled to enter on a defensive war under the terms of Art. 1, each undertakes not to negotiate nor to conclude an armistice or a peace without the participation of the other state.

ART. 5. The duration of the present Convention shall be five years from the date of its signature,[1] but either Government shall be at liberty to denounce it after two years on giving the other state six months' notice.

ART. 6. Neither of the High Contracting Parties shall be at liberty to conclude an alliance with a third power without having previously obtained the assent of the other party.

Alliances with a view to the maintenance of treaties already signed jointly by both Poland and Rumania are excepted from this provision.[2]

Such alliances must, however, be notified.

The Polish Government hereby declares that it is acquainted with the agreements entered into by Rumania with other states with a view to upholding the treaties of Trianon and Neuilly, which agreements may be transformed into treaties of alliance.

The Rumanian Government hereby declares that it is acquainted with the agreements entered into by Poland with the French Republic.

ART. 7. The present Convention shall be communicated to the League of Nations in accordance with the treaty of Versailles.

ART. 8. The present Convention shall be ratified and the ratifications exchanged at Bukharest as soon as possible.

In witness whereof the Plenipotentiaries have signed the present convention and have thereto set their seal.

Done at Bukharest in duplicate this third day of March 1921.

(L.S.) TAKE JONESCO.
(L.S.) E. SAPIEHA.

[1]That is, until March 3, 1926.
[2]See also Protocol A, 2, which follows.

Minutes

The undersigned, having met together to effect the exchange of ratifications by His Majesty the King of Rumania and the President of the Polish Republic with regard to the Convention for a defensive alliance concluded at Bukharest on March 3, 1921, between Rumania and the Polish Republic, the instruments of these ratifications were produced and, being found in good and due form, were accordingly exchanged.

On this occasion it was decided that Protocols A, B and C[1] and the Declaration which form an integral part of the Convention for a defensive alliance shall, notwithstanding that they are not transcribed in the instrument of ratification, be regarded as ratified under the same conditions as the Convention itself.

In witness whereof, the undersigned have drawn up the present minutes, which they have signed in duplicate and to which they have affixed their seals.

Done at Bukharest, July 25th, 1921.

(L.S.) Take Jonesco.
(L.S.) Al. Skrzynski.

Protocol A

At the moment of signing the convention of defensive alliance, between the Chief of State of the Republic of Poland and His Majesty the King of Rumania, their plenipotentiaries have agreed upon the following provisions which constitute an integral part of the said convention:

1. The present eastern frontiers referred to in Art. 1 of the convention of defensive alliance of even date are those which result[2]:

for Rumania, from the convention signed at Paris, October 28, 1920, between Rumania of the first part and France, Great Britain, Italy and Japan of the second part;
for Poland, from Art. 1 of the preliminaries of peace signed at Riga, October 12, 1920, between Poland and the Republic of the Soviet of Moscow, or as they shall be modified by the treaty of peace which is to follow.

2. Art. 6 of the convention is completed by the following provision:

Neither of the high contracting parties may, without the consent of the other, conclude an alliance with the powers which in the World War were enemies of the allied and associated powers.

[1]Not printed.

[2]The boundaries in detail are set forth in Article 2 of the treaty of peace of Riga, signed March 18, 1921, League of Nations, *Treaty Series*, VI, 123–131.

3. The ratification of the convention of defensive alliance will involve, without notice, the ratification of the present protocol.

In faith whereof the plenipotentiaries have signed the present protocol and have affixed their seal thereto.

Done in duplicate at Bukharest, March 3, 1921.

(Signed) TAKE JONESCO.
(Signed) E. SAPIEHA.

PROTOCOL B

At the moment of signing the convention of defensive alliance between the Chief of State of the Republic of Poland and His Majesty the King of Rumania, their plenipotentiaries have agreed upon the following provisions, which constitute an integral part of the said convention:

1. The convention of defensive alliance of even date between Poland and Rumania shall be ratified only after the signature of the treaty of peace between Poland and the Republic of the Soviets. Until then it is to remain secret.

2. If before the signature of the treaty of peace between Poland and the Republic of the Soviets one of the high contracting parties should chance to be attacked upon the eastern frontier without provocation on its part, the two governments shall examine the situation and shall advise with each other on the means to resist it.

In faith whereof the plenipotentiaries have signed the present protocol and have affixed their seals thereto.

Done in duplicate at Bukharest March 3, 1921.

(Signed) TAKE JONESCO.
(Signed) E. SAPIEHA.

DECLARATION

In the course of the visit of Prince Sapieha to Bukharest, the ministers of foreign affairs of Poland and Rumania have had several conversations in which they have examined from all angles the situation of the two countries. They are happy to record that they are entirely in agreement both upon the objects of the policy of the two countries which consists of the maintenance of the peace so dearly secured and upon the most appropriate means for assuring the success of this policy.

BUKHAREST, March 3, 1921.

(Signed) TAKE JONESCO.
(Signed) E. SAPIEHA.

2. The Baltic Entente

The policy of a series of understandings between the states from the Baltic to the Black Seas and even to the Ægean, which, as already mentioned, was a Rumanian conception in 1920, seemed to Poland to be especially promising with a view to consolidating the position as toward Soviet Russia.

In the early days of 1922 the Genoa Conference was being arranged, a general economic conference intended to co-ordinate European reconstruction. It was emphasized that a general engagement to refrain from acts of aggression was to be a feature of the settlement. The actual conference closed on May 19, 1922, without having succeeded in coming to an economic agreement with Moscow. Therefore, a meeting of experts met at The Hague in June to try and solve the outstanding question, but with no better success. The nonaggression pact of Genoa, so much heralded in advance, was finally adopted on May 19 with the Hague meeting in contemplation. It was in the following terms[1]:

VI. In order to enable the work of the commissions to be carried on in tranquillity, and in order to restore mutual confidence, engagements will be entered into binding the Russian Soviet Government and the Governments now allied with the Russian Soviet Government on the one hand, and the other participating Governments on the other hand, to refrain from all acts of aggression against their respective territories, and to refrain from subversive propaganda.

The pact to refrain from acts of aggression will be founded on the observance of the existing *status quo*, and will remain in force for a period of four months from the closing of the work of the commission.

The agreement against propaganda will bind all the signatory Governments to abstain from interfering in any way in the internal affairs of other States, from supporting by financial or other means political organizations at work in other countries, and also to suppress in their territory attempts to foment acts of violence in other states, and attempts which might disturb the territorial and political *status quo*.

Previous to the convening of the Genoa Conference, however, Poland, in line with the policy above described, called a conference at Warsaw from March 13 to 17 of the Baltic states bordering on Russia. The conference resulted in an understanding, which is

[1]Papers relating to International Economic Conference, Genoa, April–May, 1922. (British Parl. Paps., 1922, Cmd. 1667, p. 50.)

important as a stabilizing influence. It did not, however, embrace Lithuania in its scope, while Finland eventually decided not to ratify it. This political agreement, signed on the eve of the Genoa Conference, reads[1]:

The Ministers for Foreign Affairs, namely:

His Excellency M. Antoine Piip, Minister for Foreign Affairs of the Esthonian Republic,

His Excellency M. Rudolf Holsti, Minister for Foreign Affairs of the Republic of Finland,

His Excellency M. Zigfrids A. Meierovics, President of the Council and Minister for Foreign Affairs of the Republic of Latvia,

His Excellency M. Constantin Skirmunt, Minister for Foreign Affairs of the Polish Republic,

having assembled in conference at Warsaw on March 13, 1922, at the invitation of the Polish Government and in conformity with the decision of the Helsingfors Conference, of July 29, 1921,

> being anxious to affirm the community of their mutual political and economic interests,
> and being desirous of strengthening the relations so happily inaugurated between them and being firmly convinced that the maintenance of peace in Eastern Europe is an indispensable condition for its economic recovery,

have agreed upon the following provisions:

Article I. The Governments represented at the Conference of Warsaw confirm the reciprocal recognition of the treaties of peace which concluded the state of war between Esthonia and Russia on February 2, 1920, between Latvia and Russia on August 11, 1920, between Finland and Russia on October 14, 1920, and between Poland of the one part and Russia, the Ukraine and White Ruthenia of the other part on March 18, 1921.

Art. II. The Governments represented at the conference undertake not to conclude any agreement to the direct or indirect disadvantage of any one of their respective states.

Art. III. In order that their mutual relations may be fully public, and that there can be no suspicion of their good faith, each of the Governments represented at the conference shall be bound henceforward to communicate to the other three Governments the text of the treaties concluded between it and other state or states.

[1]League of Nations, *Treaty Series*, XI, 168.

ART. IV. The Governments represented at the conference undertake to enter as soon as possible into negotiations with a view to the conclusion between them of such of the proposed administrative and economic treaties and conventions as have not yet been concluded, and especially of commercial treaties and consular, option and extradition conventions.

ART. V. States which contain racial minorities belonging to the numerically superior race in one of the other contracting states shall guarantee to such minorities all rights and liberties and shall safeguard the preservation and free development of the organizations of their national culture.

ART. VI. The Governments represented at the conference agree to decide any controversy or dispute between their respective states solely by peaceful methods. In all questions of a more important nature, they shall have recourse to arbitration, which shall be intrusted by common agreement of the states concerned, either to arbitrators chosen *ad hoc*, or to the Court of International Justice, in conformity with the Covenant of the League of Nations.

ART. VII. The states represented at the Conference of Warsaw declare that, in case of an unprovoked attack upon any one of them by another state, they will adopt a benevolent attitude toward the state attacked, and will immediately agree upon their course of action.

ART. VIII. The present agreement shall be valid for five years from the date of the deposit of the last ratification, and it shall be prolonged from year to year without former renewal, subject to denunciation six months in advance.

ART. IX. The present agreement shall be ratified, and the instruments of ratification shall be deposited at the Ministry of Foreign Affairs at Warsaw.

Done at Warsaw in four copies, the seventeenth day of March, nineteen hundred and twenty-two.

(Signed) ANT. PIIP.
(Signed) RUDOLF HOLSTI.
(Signed) Z. A. MEIEROVICS.
(Signed) SKIRMUNT.

VI. GERMANY AND RUSSIA

It has been a favorite speculation since the World War to envisage a Russo-German alliance. There have been reams of newspaper stories written on the subject, and, of course, the idea has been theoretically examined in not a few chancelleries. But there has not been any sound ground for assuming either the possibility or the probability of such a union.

Germany, like all the states of eastern Europe, recognized Soviet Russia early and maintained diplomatic relations with Moscow. In the case of Germany both recognition and diplomatic relations had resulted as incidents of the treaty of Brest-Litovsk of March 3, 1918. When that treaty was annulled by the armistice of November 11, 1918, no change was made. Shortly Bolshevist propaganda became extensive in Germany, but the German governments of the democratic revolution easily survived it. From time to time treaties on normal subjects of international intercourse were negotiated between the two states.

Both Germany and the Soviet Republic were included in the Genoa Conference, which was held in the spring of 1922. Their representatives at the conference signed the following treaty on Easter Day[1]:

The Government of the Russian Socialistic Federal Soviet Republic, represented by the People's Commissary for Foreign Affairs, George Chicherin, and by the Vice-Commissary for Foreign Affairs, Maxim Litvinoff, and the German Government, represented by [Walther Rathenau] have come to an agreement regarding the following provisions:

Article I. The two Governments agree that the settlement between Germany and the Russian S. F. S. R. of the questions arising from the period of the state of war between Germany and Russia is to be regulated on the following basis:

(*a*) Germany and the R. S. F. S. R. mutually renounce compensation for the war expenditure as well as compensation for war damages, *i.e.*, the damages which have been caused to them and their nationals in the war area by military measures, including all requisitions in enemy territory. Both parties likewise renounce compensation for civil damages which have been caused to the nationals of one party under the so-called special war legislation or by the forcible measures of the state authorities, of the other party;

[1]Papers relating to International Economic Conference, Genoa, April–May, 1922. (British Parl. Paps., 1922, Cmd. 1667, p. 51–52.)

(*b*) The public and private legal relationships affected by the state of war, including the question of the treatment of vessels of the mercantile marine which have fallen into the hands of the other party, shall be settled on the basis of reciprocity;

(*c*) Germany and Russia mutually renounce their claims to reimbursement of their respective expenditure on behalf of prisoners of war. The German Government likewise waives its claim to reimbursement of its expenditure in connection with the soldiers of the Red Army interned in Germany. The Russian Government, on its part, renounces claim to the proceeds of the sale by Germany of the military material brought by the interned soldiers of the Red Army into Germany.

Art. II. Germany renounces claims which have arisen through the application up to the present of the laws and measures of the R. S. F. S. R. to German nationals or to their private rights as well as to the rights of Germany and its constituent states against Russia, or from the measures otherwise adopted by the R. S. F. S. R. or its officials against German nationals or their private rights, provided that the Government of the R. S. F. S. R. does not satisfy similar claims of other states.

Art. III. Diplomatic and consular relations between Germany and the R. S. F. S. R. will immediately be resumed. The admission of consuls of the two parties shall be governed by a special agreement.

Art. IV. The two Governments further agree that as regards the general legal position of nationals of the one party in the territory of the other, and the general regulation of mutual commercial and economic relations, the principle of the most-favored-nation treatment shall apply. The most-favored-nation principle does not extend to the privileges and facilities which the R. S. F. S. R. grants to any soviet republic or to a state which previously formed part of the former Russian Empire.

Art. V. The two Governments shall mutually assist, in a spirit of good will, in supplying the economic requirements of the two countries. In the event of this question being settled in principle on an international basis, they will exchange views as above. The German Government declares itself ready to support, as far as possible, the agreements contemplated by private firms, which have recently been communicated to it, and to facilitate their execution.

Art. VI. Art. I, par. *b*, and Art. IV of the present treaty shall enter into force on ratification[1]; the other provisions at once.

Signed in duplicate at Rapallo, April 16, 1922.

(Signed) Rathenau. (Signed) Chicherin.

[1]The exchange of ratifications took place at Berlin on January 31, 1923.

The publication of this treaty immediately after its signing created one of the most curious situations that postwar diplomacy has encountered. The Principal Allied Powers had taken great credit to themselves in having admitted Germany and Russia to the Genoa Conference at all. It was constantly obvious throughout the conference that neither they nor any other states, with the exception of the self-assertive Little Entente, were treated as equals by the British, French and Italians. The representatives of the three latter were constantly in private conference and as constantly sought to get everybody's else signature on the dotted line.

Viewed technically, the Rapallo treaty is a very fair document, and it avoids on the part of Germany any acceptance of communist theory. Its mutual renunciations, while perhaps more academic than real, was a not too common instance of forgiving and forgetting a great deal.

On April 18 representative of the British Empire, France, Italy, Japan, Belgium, Czechoslovakia, Poland, Serb-Croat-Slovene State, Rumania and Portugal drew up a note which was sent to the German, but not the Russian, delegation.[1] This note began with the novel statement that the treaty had been secretly concluded. It expressed the opinion that the treaty "is a violation of the conditions to which Germany pledged herself on entering the conference." It stated that "at all conferences unofficial conversations between the parties are permissible and often desirable . . . but that is not what the German delegates have done . . . this treaty is not subject to any examination or sanction by the conference . . . it is in fact a violation of some of the principles on which the conference is based." It therefore assumed "that the German delegates have by their action renounced further participation in the discussion of the conditions of an agreement between Russia and the various countries represented at the conference."

The German delegation in reply on April 21[2] stated that the Berlin Government had recognized the Russian Soviet Republic several years before, but before normal relations could be es-

[1]Papers relating to International Economic Conference, Genoa, April–May, 1922. (British Parl. Paps., 1922. Cmd. 1667, p. 53–54.)

[2]Papers relating to International Economic Conference, April–May, 1922. (British Parl. Paps. 1922. Cmd. 1667, p. 54–56.)

tablished it was necessary to conclude an agreement to liquidate the consequences of the war. It asserted that several provisions of the London program "would have resulted in laying upon Germany alone the whole burden of the consequences of the legislation promulgated under the Czarist régime during the war."

"The German delegation had learned that the inviting powers had initiated separate negotiations with Russia. From information received regarding these negotiations, it seemed that an agreement was about to be reached, in which the legitimate desires of Germany were not considered. Under these circumstances, the German delegation was clearly forced to safeguard its interests by direct means. It would otherwise have been confronted, at the meeting of the commission, with a scheme which, while not acceptable to Germany, would already have been approved by a majority of the members. For this reason the treaty with Russia was signed on Sunday evening, in exact conformity with the draft of several weeks previously, and was immediately made public.

It was added that "the treaty does not in any way affect the relations of third powers with Russia. Moreover each of its stipulations is based upon the principle which you have justly stated to be the chief aim of the conference, namely, that of regarding the past as definitely closed and seeking to lay the foundation for the common work of peaceful reconstruction.

"As regards subsequent discussions of Russian questions by the conference, the German delegation itself also considers it fitting that, unless its collaboration is particulary desired, it should take no further part in the deliberations of the first commission on questions similar to those already settled between Germany and Russia."

The French took the treaty most seriously. It was unofficially alleged in Paris that it was a violation of Arts. 116 and 260 of the treaty of Versailles. Art. 260 provides that the Reparation Commission may demand that Germany secure possession of rights and interests of German nationals in Russia for transfer to the commission. The commission itself eventually saw no violation of this provision in the treaty, but passed a resolution which called Germany's attention to its existence and assumed that the Rapallo treaty would be interpreted consistently with it. No question on that point has subsequently arisen.

The other powers at Genoa felt that it was undesirable to pursue the correspondence, but France was unwilling to let the matter rest. In a note of April 21[1] to the president of the conference, the French delegation requested that a reply be made to the "lying allegations" of the German note.

This reply, dated April 23,[2] confined itself to denying that there was reason behind the German assertion that Germany would be exposed to "the risk of being confronted with a scheme unacceptable to Germany but already approved by the majority of the members." It said nothing in reply to the German assertion that the treaty was a reply to separate negotiations with Russia. The note ended with these remarkable words:

> The undersigned expressly reserve for their Governments the right to declare null and void any clauses in the Russo-German treaty which may be recognized as contrary to existing treaties.
>
> The incident may now be regarded as closed.

The incident was not closed, however. The Russians inquired of the Poles how it happened that they were able to sign a treaty at Riga on March 30 with the Bolshevists, Esthonians and Letts, concerning Russian affairs and yet felt at libery to join in a protest against Germany making a treaty with Russia. Chicherin called the Polish action "an outrage against the sovereign rights of Russia," and inquired how the unheard of assertion of a right by third powers to annul a treaty concluded between two others could be reconciled with Poland's recognition *de jure* of the Russian Soviet Republic.

Mr. Skirmunt, the Polish minister, produced "a polite but rather cloudy and prolonged reply." The Russian analogies were inapplicable. Polish participation in the correspondence could not be interpreted as affecting Russian sovereignty or depriving Russia of the right to conclude treaties. The accusations were, therefore, baseless. Moreover Russia had not been asked for her opinion.

French opinion was indisposed to regard the incident as closed, and on April 30 Chicherin addressed a letter to Louis Barthou in which the following important statement was made[3]:

[1]Mills, *The Genoa Conference*, p. 105–106.

[2]Papers relating to International Economic Conference, Genoa, April–May, 1922. (British Parl. Paps., 1922. Cmd. 1667, p. 56–57.)

[3]Mills, *The Genoa Conference*, p. 129–131.

The Russian delegation declares in the most categorical manner, in confirmation of what it has stated semi-officially, that the Rapallo agreement contains no secret military or political clause and is accompanied by no such clause, also that the Russian Government is not engaged in any act or action whatever directed against the interests of the French or any other nation.

The Rapallo treaty, it is reported, has been extended to include all members of the Union of Socialist Russian Soviet Republics.

Immediately after the Genoa excitement over the Rapallo treaty had died down, stories began to appear concerning an alleged secret military convention completing it. Only one part of the European press carried these reports, which differed very widely in their description of the terms of the alleged agreement. Finally, the *London Times* in its edition of May 20, 1922, published an exceedingly circumstantial account of its supposed contents. According to this account, the convention had been signed at Berlin on April 3. But the contents of the document as related were improbable. For instance, the German General Staff, which was dissolved in accordance with the treaty of peace, undertook to arm and equip one hundred and eighty infantry regiments for the Russian Soviet Republic and to deliver the necessary field and heavy artillery for twenty divisions of infantry. Art. 170 of the treaty of Versailles prohibits the manufacture for foreign countries of any war material and Art. 165 specifies maximum amounts allowable in Germany. Since the Interallied Military Commission has full power to ascertain all armament facts, it is improbable that such manufacture could escape its attention. It was stated in the English Parliament on May 29, 1922, by Premier Lloyd George that "no confirmation had been obtained" of the authenticity of the reports of such an agreement. The rumor has not since appeared.

There does, however, seem to be truth in the statement that the Rapallo treaty was accompanied by agreements granting concessions to German undertakings. Definite items in this concession program seem to be:

Lease for fifteen years of the sugar beet lands in the governments of Kharkov, Kiev and Ekaterinoslav to a syndicate of German banks.

Coal land concessions for fifteen years in the Don district to the Stinnes group.

Land concessions in Kuban and Terek, involving settlement by German colonists.

Oil concession in Grozhno to the Krupps.[1]

[1]On the treaties and trade agreements of Soviet Russia, see Commerce Reports, June 25, 1923, p. 809.

VII. THE RUSSIAN-TURKISH TREATY

Bolshevist policy toward the Near East has been defined officially as "a policy of compromises leading to understanding with the Oriental nationalistic states which are struggling for their independence against western imperialism." The treaty signed by Moscow with the Angora Government of Turkey on March 16, 1921, is an interesting example of that policy. By it the Russians renounced all the historic Russian claims in Turkey and studiously repudiated any policy which they were certain would be followed by the western states in respect of Turkey. The reasons for such a show of generosity are to be found in the fact that on some of these the Bolshevists set no value while with regard to others they knew that their action would embarrass other states. This treaty of Moscow reads as follows[1]:

Sharing the principle of the brotherhood of nations and of the right of the peoples to self-determination, and confirming the solidarity which unites them in the struggle against imperialism, as well as the fact that any difficulties raised before one of the peoples are liable to complicate the situation of the other, the Government of the Russian Socialist Federated Soviet Republic on the one hand, and the Government of the Grand National Assembly of Turkey on the other, animated by the desire to establish lasting and cordial relations, and by a continuous and sincere friendship based on their mutual interests, have decided to conclude with one another a treaty of friendship and brotherhood, and with this object have appointed as their plenipotentiaries:

The Government of the R. S. F. S. R.: George Vassilievich Chicherin, People's Commissary for Foreign Affairs and member of the All-Russian Central Executive Committee, and Djelal-Eddin Korkmassoff, Member of the All-Russian Central Executive Committee; and the Government of the Grand National Assembly of Turkey: Yussuf Kemal Bey, People's Commissary for National Economy of the Grand National Assembly of Turkey and Deputy from Kastamuny to the aforesaid Assembly; Dr. Riza Nur Bey, People's Commissary for Education of the Grand National Assembly of Turkey and Deputy from Sinop to the aforesaid Assembly; Ali Fuad Pasha, Ambassador Extraordinary and Plenipotentiary of the

[1]Translation by Alexander Nazaroff, from *Current History*, November, 1922, p. 277.

Grand National Assembly of Turkey and Deputy from Angora to the aforesaid Assembly.

These plenipotentiaries, after having exchanged their respective credentials, which were found to be in due and legal form, have come to the following agreement:

ARTICLE 1. Neither contracting party will recognize treaties or international acts which are imposed by force on the other party. The Government of the R. S. F. S. R. agrees to recognize no such international acts concerning Turkey that have not been recognized by the Nationalist Turkish Government as represented by the Grand National Assembly.

The frontiers of Turkey are understood in this treaty to include all the territories enumerated in the National Turkish Pact which were agreed to and proclaimed by the Chamber of Deputies on January 28, 1920 (1336, Turkish calendar), in Constantinople. The text of this pact was communicated to the press as well as to all the powers.

The northeastern boundary line of Turkey is specified as follows: This line starts from the Village of Sarp on the Black Sea coast, crosses the mountain Khedis-Mta, and follows the watershed line of the mountains Shavshet and Kanni-Dag. Thence it follows the northern administrative frontier of the sanjaks of Ardahan and Kars, and the bed of the rivers Arpa-Tchai and Arax, thus reaching the mouth of the Lower Kara-Ssu (Appendix I., A and B).

ART. 2. Turkey agrees to cede to Georgia the suzerainty over the city and the port of Batum, as well as over the territories north of the frontier, which are specified in Art. 1 of the present treaty and which form part of the Batum district, on condition that

1. The population of the territories defined in this article shall enjoy a broad administrative autonomy which will secure to every community the respect of its religious and cultural rights; the population shall be granted the possibility of enacting such agrarian laws as it may wish to enjoy.

2. Turkey shall be permitted full use of the port of Batum for the transit of all imported and exported merchandise, free of custom dues or any levies. This right of Turkey shall be hampered by no regulations, and no special taxes shall be exacted from her for the use of this port.

ART. 3. The two contracting parties agree that the district of Nakhichevan, the frontiers of which are specified in Appendix I. (C) of the present treaty, shall form an autonomous territory under the protectorate of Azerbaijan, provided Azerbaijan shall cede this protectorate to no other country.

The triangular territory of Nakhichevan is formed by the line which follows the bed of the river Arax, and passes by the mountains Dachna (3829), Veli Dag (4121), Bagarzik (6587), Kemurlu Dag (6930), and

Serai-Bulak (8071). Thence it reaches the station Ararat, and rejoins Arax at the crossing with Kara-Ssu. A commission of delegates from Turkey, Azerbaijan and Armenia will fix this line laid down above.

Art. 4. Recognizing that the national movements in the Orient are similar to and in harmony with the struggle of the Russian workingmen for the new social order, the two contracting parties assert solemnly the rights of these peoples to freedom, independence and free choice of such forms of government as they themselves desire to have.

Art. 5. With a view to guaranteeing the freedom of the Straits and their free passage for commercial purposes to all countries, both parties agree to intrust to a special conference, composed of the delegates from all the riverain states, the drafting of the definitive and international status of the Black Sea and of the Straits, on condition that its decisions shall not prejudice the absolute sovereignty and the safety of Turkey and of her capital, Constantinople.

Art. 6. Both parties recognize that all the treaties theretofore concluded between them do not correspond to their reciprocal interests. Therefore, they agreed to consider the aforesaid treaties void and abrogated. The Government of the R. S. F. S. R. declares, in particular, that it considers Turkey free from any financial or other obligations based on international treaties concluded between Turkey and the Government of the Tsar.

Art. 7. The Government of the R. S. F. S. R. considers the capitulatory régime to be incompatible with the free national development, and with the sovereignty of any country, and it regards all the rights and acts relating in any way to this régime as annulled and abrogated.[1]

Art. 8. Both contracting parties undertake not to allow on their respective territories the formation and the sojourn of groups that would lay claim to the rôle of Government in the country of the other party, or in a part of it, as well as of groups that intend to struggle against the other party. Russia and Turkey assume analogous obligations based on the principle of reciprocity with regard to the Transcaucasian Soviet Republics. It is agreed that Turkish territory, as defined in this article, is understood to include only that part of the country which is under the direct military and civil administration of the Government of the Grand National Assembly.

Art. 9. With the object of facilitating intercourse between their respective countries, both parties agree to take in concert with each

[1]The Turkish text refers specially to Turkey, viz., "The . . . Soviet Republic, recognizing that the régime of the capitulations is incompatible with the national development *of Turkey*, as well as with the full exercise of its sovereign rights, considers null and void the exercise *in Turkey* of all functions and of all rights under the capitulatory régime.

other all measures necessary to maintain and develop within the shortest possible time railway, telegraphic and other ways of communication. [Measures will also be taken to secure the free and unhampered traffic of passengers and commodities between the two countries. It is understood, however, that the passenger traffic, as well as the export and import of commodities, will be subject in every country to the regulations existing to that effect.][1]

Art. 10. Citizens of each of the contracting parties living on the territory of the other contracting party will share all the rights and obligations based on the laws of the country in which they sojourn, with the exception of the obligations relating to the national defense, of which they shall be free. Questions relating to family law and to the law of inheritance, as well as to the juridical competency of the citizens of both countries, shall also make an exception to the stipulations of this article, and shall be regulated by a special convention.

Art. 11. Both parties agree to accord the most-favored treatment to the citizens of each party residing on the territory of the other party. The stipulations of the present article apply neither to the citizens of the Soviet Republics allied to Russia, nor to the citizens of the Moslem countries allied to Turkey.

Art. 12. Every resident of the territories which prior to 1918 formed part of Russia, and which by virtue of the present treaty are recognized by the Government of the R. S. F. S. R. as passing under the sovereignty of Turkey, shall be free to leave Turkey, taking with him his belongings and property, or an equivalent sum of money. The same right is granted to the residents of Batum, suzerainty over which by virtue of the present treaty is ceded by Turkey to Georgia.

Art. 13. Russia undertakes to convey, at her own expense, all Turkish military and civil prisoners now in her territory to the Northwestern Turkish frontier. In the Caucasus and in European Russia this shall be carried out within three months from the day of the signature of this treaty, while in Asiatic Russia the time is extended to six months. The details of this repatriation shall be the subject of a special convention to be drawn up immediately after the signature of this treaty.[2]

Art. 14. Both contracting parties agree to conclude in the nearest future a Consular agreement, as well as such treaties regulating economic, financial and other questions, as are necessary for the establishment of the reciprocal friendly relations outlined in the introduction of this treaty.

[1]The bracketed clauses are omitted by the Turkish version.

[2]The Turkish version, representing obviously a later addition, makes the agreement mutual, viz., "Turkey enters into a similar agreement respecting Russian prisoners of war and civil prisoners who are still in Turkey."

Art. 15. Russia undertakes to take all steps necessary to secure the recognition by the Transcaucasian Republics, in special treaties which they are to conclude with Turkey, of such stipulations of the present treaty as relate directly to them.

Art. 16. The present treaty is subject to ratification. The ratifications shall be exchanged at Kars in the shortest possible time. With the exception of Article 13, the present treaty will become valid from the moment of exchange of ratifications.

The above-mentioned plenipotentiaries certify the stipulations contained in this treaty by appending hereto their signatures and by the application of their seals.

Done in two copies on March 16, 1921 (1337, Turkish calendar), at Moscow.

(For Russia):
Georgi Chicherin,
Djelal Korkmassoff.

(For Turkey):
Yussuf Kemal,
Dr. Riza Nur,
Ali Fuad.

VIII. THE SUCCESSION STATES OF THE AUSTRIAN EMPIRE

Only an intimate familiarity with the treaty relations of the European states before the World War would afford the proper perspective for judging to what extent the peace made over the continental scheme of things. Reparation, boundaries, ore regions get into the news headlines, but, important as they are, such questions can easily be given an exaggerated emphasis. Fully three-fourths of the treaties of peace in quantity have attracted no attention whatever. They represent the great mass of detailed arrangements necessary between nations, which, for one reason or another, have or were given no political solution. They were settled on their merits, not on the basis of national policies. Many other questions, however, remained, some untouched by the treaties of peace and others resulting from the fact that those treaties did not completely settle all the questions they touched. Such was particularly the case with the states which succeeded to the territory and interests of the Austro-Hungarian Monarchy. New boundaries cut athwart established railroad lines in awkward places. Instances could be given where a farmer went abroad to milk his cow in his own pasture and ought to pay importation duty on the milk at the frontier between the pasture and the house.

1. The Portorose Conference

The succession states tackled the problem of adjusting treaty provisions to practical lines at a conference convened at Rome from April 6 to June 15, 1921. It was found that economic questions broader in scope than contemplated by the treaties of St. Germain-en-Laye and Trianon must also be studied and therefore the conference adjourned to meet with an enlarged agenda at Portorose in the following November. The Portorose conference was largely due to the initiative of Colonel Clarence Browning Smith, American representative on the Reparation Commission at Vienna, who served as American observer at the conference. The scope of the conference and its results are indicated by the final protocol, which reads[1]:

[1] *International Conciliation*, July, 1922. No. 176, p. 253.

The President of the Austrian Republic; the President of the United States of America; His Majesty the King of the Serbs, Croats and Slovenes; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland; His Highness the Regent of Hungary; His Majesty the King of Italy; the Chief Executive of the Polish State; His Majesty the King of Rumania; and the President of the Czechoslovak Republic,

Considering the difficulties opposing the free development of commercial relations, of postal, telegraph and telephone services and of transportation between the states that have acquired territories of the former Austro-Hungarian Monarchy, or that have arisen from the dismemberment of that monarchy,

Desiring, moreover, to overcome as far as possible the obstacles hindering the economic rehabilitation of those states,

Have agreed to seek by common accord those measures whose application shall be most prompt and effective with that end in view.

For this purpose have delegated as their representatives: . . .

Who, united in conference at Portorose, recognize as answering the requirements indicated above, the provisions contained in the following instruments. These instruments, annexed to the present protocol agreement, have been agreed upon and signed by the representatives of the states to which have been alloted territories of the former Austro-Hungarian Monarchy, or which have arisen from the dismemberment of that monarchy.

1. A Protocol signed by the representatives of Austria, Hungary, Italy, Poland, Rumania, the Serb-Croat-Slovene Kingdom and Czechoslovakia, to facilitate commercial exchange;

2. An Arrangement regarding postal relations between Austria, Hungary, Italy, the Serb-Croat-Slovene Kingdom and Czechoslovakia, with a final Protocol;

3. A special Arrangement regarding postal relations between Austria, Hungary, Rumania and Czechoslovakia, with a final Protocol;

4. A Recommendation regarding an Aerial Postal Convention;

5. A Recommendation regarding a Postal Conference;

6. A Recommendation regarding the official names of places;

7. An Arrangement concluded between Austria, Hungary, Italy, Poland, Rumania, the Serb-Croat-Slovene Kingdom and Czechoslovakia, regarding the amelioration and simplification of telephone and telegraph services between those states;

8. A Recommendation regarding telegraph and telephone services;

9. Agreements concluded between Austria, Hungary, Italy, Poland, Rumania, the Serb-Croat-Slovene Kingdom and Czechoslovakia regarding the temporary régime for the circulation of the rolling stock of the

former Austro-Hungarian Monarchy, applicable until the final distribution of the stock;

10. Agreements concluded between Austria, Hungary, Italy, Poland, Rumania, the Serb-Croat-Slovene Kingdom and Czechoslovakia concerning the restitution of privately-owned railway cars;

11. Agreements concluded between Austria, Hungary, Italy, Poland, Rumania, the Serb-Croat-Slovene Kingdom and Czechoslovakia regarding the following questions:

A. Mutual assistance in rolling stock;
B. Repairs of rolling stock;

12. A Recommendation regarding confiscated and captured rolling stock belonging to the Allied and Associated Powers;

13. Agreements concluded between Austria, Hungary, Italy, Poland, Rumania, the Serb-Croat-Slovene Kingdom and Czechoslovakia for the regulation of international railway traffic;

14. A Recommendation regarding the convening of an International Conference to study European General Conventions on the regulation of international transportation;

15. A Recommendation for the standardization of tariff rates for international railway traffic and the adoption of a uniform currency for international tariffs;

16. A Recommendation regarding the appointing of a Commission to study the essential requirements of the railways and the resources to be drawn upon to satisfy such requirements;

17. A Declaration regarding the facilities to be granted certain categories of travelers;

18. A Protocol signed by the Representatives of Austria, Hungary, Italy, Poland, Rumania, the Serb-Croat-Slovene Kingdom and Czechoslovakia regarding the actual régime affecting passports and visas.

In witness whereof the above indicated delegates have affixed their signatures to the present Protocol.

Done at Portorose, the twenty-third day of November, one thousand nine hundred and twenty-one, in French and in Italian, in a single copy which shall remain deposited in the archives of the Government of the Kingdom of Italy, and of which authenticated copies shall be sent to the Governments of all the powers represented at the conference.

Most of these documents were executory. The others have not been very successful in attaining ratification, but their principles were recognized as sound and their adoption in the form of laws, regulations or in substance in bipartite treaties has had a tremendous effect in improving political and economic relations between the states primarily parties to them.

Two months later the seven succession states—Austria, Hungary, Italy, Poland, Rumania, the Serb-Croat-Slovene State and Czechoslovakia—met in conference at Graz to solve the problem of the circulation of persons throughout their territories, as provided in the 18th Portorose protocol. The League of Nations had convened a conference on this matter at Paris in October, 1920, and its proposals were available for the Portorose conference, which, however, was unable to give the subject a formal solution. At Graz on January 27, 1922, they signed an agreement concerning passports and visas which duly entered into force and settled perhaps the most aggravating problem among those states.[1]

2. Czechoslovakia and Poland

The succession states are confronted with a vast number of problems respecting their neighborly relations. Czechoslovakia, which took the lead in the Little Entente, also assumed leadership in adjusting these questions. With Poland her relations were most acute by reason of unsettled territorial matters, and it was with Warsaw that she negotiated her first political agreement outside of the Little Entente. The agreement is notable because it stipulates the settlement of all disputes by the arbitral or judicial processes. It was signed at Prague on November 6, 1921, and reads[2]:

Equally anxious to safeguard the peace in Europe and firmly desirous of organizing relations between Czechoslovakia and Poland on the basis of the solidarity of their mutual political and economic interests, the Czechoslovak Government and the Polish Government are agreed upon concluding a political agreement.

To this end, the chiefs of the two states have named as their plenipotentiaries:

The President of the Czechoslovak Republic, his President of the Council and Minister for Foreign Affairs, Dr. Edouard Benesh,

The Chief of the Polish State, his Minister for Foreign Affairs, Mr. Constantin Skirmunt,

who, after having exchanged their full powers, found in good and due form, have agreed upon the following engagements:

[1]Text in League of Nations, *Treaty Series*, IX, 291.

[2]Translated from *L'Europe nouvelle*, May 5, 1923, p. 569.

ARTICLE 1. The two states mutually guarantee to each other their territorial possessions based on the treaties from which the independence and organization of the state of Poland and the state of Czechoslovakia depend. The two states shall reach an agreement, when occasion demands, upon the application of treaties signed in common.

ART. 2. The two states engage to preserve benevolent neutrality in case either of them should be attacked by one of their neighbors, and especially to insure free transit of war materials.

ART. 3. Czechoslovakia declares herself disinterested in the question of eastern Galicia. In consequence of this she undertakes the obligation of dissolving the Ukrainian formations which are interned in Czechoslovakia and to repress all active propaganda intended to detach any territory from the Republic of Poland.

Analogous obligations are taken by Poland with regard to Czechoslovakia.

Henceforth each of the two states engages not to tolerate on its territory any political or military organization directed against the integrity and security of the other state.

ART. 4. The two Governments take note of the political, military and economic conventions concluded between Czechoslovakia, Rumania and Jugoslavia on the one side, and the analogous conventions concluded between Poland, France and Rumania on the other.

ART. 5. A commercial convention between Czechoslovakia and Poland shall regulate between these states all economic and financial questions as well as those relative to transit.

ART. 6. Both parties engage that, in all disputed questions of any considerable importance, the two states shall have recourse to an arbitration. Questions before being settled by arbitration may, by common agreement between the two Governments, be submitted to arbiters *ad hoc*, or else shall be brought before the Court of International Justice.

ART. 7. Reciprocal engagement is taken by the two states that no new agreement contravening the present agreement shall be concluded by them with other states.

ART. 8. The duration of the present agreement is five years, dating from the exchange of ratifications, but each of the two Governments is at liberty to denounce it after two years upon giving the other state six months' notice in advance.

ART. 9. The present agreement shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

In faith whereof, the plenipotentiaries have signed the present agreement and have affixed their seals thereto.

Done in duplicate at Prague, November 6, 1921.

(Signed) EDOUARD BENESH. CONSTANTIN SKIRMUNT.

3. Czechoslovakia and Austria

Austria was the next state with which such an agreement was sought by Czechoslovakia. The move was noteworthy because it was the first move by any of the victorious powers on the entirely normal basis of customary peaceful relations. The undertaking to "carry out in full" the treaty of St. Germain-en-Laye is perhaps quixotic, since all active financial provisions of that treaty were already suspended by agreement; but that may be regarded as a declaration of principle. This agreement also provides for settlement of all disputes. It was signed at Prague on December 16, 1921, and is as follows[1]:

The Government of the Czechoslovak Republic on the one part and the Government of the Federal Republic of Austria on the other part, with a view to maintaining peace in Europe and to regulating their mutual political and economic relations, have arranged to conclude a political agreement and have for this purpose appointed as their Plenipotentiaries:

The President of the Czechoslovak Republic:

M. Edouard Benesh, the President of the Council and Minister for Foreign Affairs;

The Federal President of the Republic of Austria:

M. Jean Schober, Federal Chancellor and Director of the Federal Ministry for Foreign Affairs,

who having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

Article I. Both states undertake to carry out in full all the provisions of the treaty of peace concluded with Austria at St. Germain-en-Laye on September 10, 1919, and the treaty of peace concluded with Hungary at Trianon on June 4, 1920.

Art. II. The two states mutually guarantee their territories as fixed by the treaties of peace referred to in Art. I; and, with a view to maintaining peace and safeguarding the integrity of these territories, they undertake to afford each other mutual political and diplomatic support.

Art. III. Each state undertakes to remain neutral should the other be compelled to defend itself against attack.

Art. IV. Both states undertake not to tolerate on their territories any political or military organization directed against the integrity and security of the other contracting party. They agree to work together

[1]League of Nations, *Treaty Series*, IX, 257.

and afford each other mutual aid against any plans or attempts to restore the former régime, either as regards foreign and domestic policy, or in respect of the form of the state and of Government. The competent authorities of both states shall afford each other mutual assistance in effectively combating secret intrigues having this object.

ART. V. The Czechoslovak Republic will communicate to the Federal Republic of Austria certain political and economic conventions which the Czechoslovak Republic has concluded with the Kingdom of the Serbs, Croats and Slovenes, the Kingdom of Rumania and the Republic of Poland. Similar conventions concluded by the Federal Republic of Austria shall be communicated to the Czechoslovak Republic.

ART. VI. Both states undertake to enforce the observance of agreements concluded or to be concluded for the settlement of economic and financial questions, or of questions relating to minorities, and to arrive at an understanding as soon as possible with regard to any disputes which may not yet have been settled.

ART. VII. Should disputes arise between the two states after the conclusion of the present agreement, the two Governments undertake to endeavor to settle them by amicable arrangement; they will if need be submit the dispute to the Permanent Court of International Justice or to an arbitrator or arbitrators chosen *ad hoc*.

ART. VIII. Each state undertakes not to conclude with any other state any agreement which would conflict with the Agreement now entered into by the two contracting parties. They further declare that the present Agreement is not in conflict with agreements previously concluded.

ART. IX. The present agreement is concluded for a period of five years dating from the day on which the instruments of ratification are exchanged; after a period of three years dating from the said date, each of the contracting parties is free to denounce the present Agreement, six months' notice being given.

ART. X. The present agreement shall be ratified and the instruments of ratifications shall be exchanged at Prague as soon as possible.

ART. XI. The present agreement shall be communicated to the League of Nations.

In witness whereof the two plenipotentiaries have signed the present agreement and affixed their seals thereto

Done in duplicate at Prague on December 16, 1921.

(L.S.) DR. EDOUARD BENESH. (L.S.) SCHOBER.

IX. THE PACIFIC PACT

When the United States took the initiative in the summer of 1921 in calling a conference on the limitation of armament, the invitation specified that Far Eastern questions would also be considered by the conference. The first completed work of the conference in treaty form was a document technically entitled a treaty relating to the insular possessions and the insular dominions of the contracting states in the region of the Pacific Ocean.

There was much discussion in the United States as to whether or not this was an alliance. Its entrance into force has the effect of ending the Anglo-Japanese alliance. The prevailing American opinion eventually arrived at was that the definite provision that there should be an understanding as to the most efficient measures to be taken with respect to aggressive action constituted a satisfactory distinction between this treaty and an alliance. The treaty itself reads[1]:

The United States of America, the British Empire, France and Japan,

With a view to the preservation of the general peace and the maintenance of their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean,

Have determined to conclude a treaty to this effect and have appointed as their plenipotentiaries:

[Here follows list of names and titles.]

Who, having communicated their full powers, found in good and due form, have agreed as follows:

I. The high contracting parties agree as between themselves to respect their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean.

If there should develop between any of the high contracting parties a controversy arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy and is likely to affect the harmonious accord now happily subsisting between them, they shall invite the other high contracting parties to a joint conference to which the whole subject will be referred for consideration and adjustment.

[1]Sen. Doc. 126, 67th Cong., 2nd sess., p. 889.

II. If the said rights are threatened by the aggressive action of any other power, the high contracting parties shall communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken, jointly or separately, to meet the exigencies of the particular situation.

III. This treaty shall remain in force for ten years from the time it shall take effect, and after the expiration of said period it shall continue to be in force subject to the right of any of the high contracting parties to terminate it upon twelve months' notice.

IV. This treaty shall be ratified as soon as possible in accordance with the constitutional methods of the high contracting parties and shall take effect on the deposit of ratifications, which shall take place at Washington, and thereupon the agreement between Great Britain and Japan, which was concluded at London on July 13, 1911, shall terminate. The Government of the United States will transmit to all the signatory powers a certified copy of the *procès-verbal* of the deposit of ratifications.

The present treaty, in French and in English, shall remain deposited in the archives of the Government of the United States, and duly certified copies thereof will be transmitted by that Government to each of the signatory powers.

In faith whereof the above named plenipotentiaries have signed the present treaty.

Done at the City of Washington, the thirteenth day of December, One Thousand Nine Hundred and Twenty-One.

CHARLES EVANS HUGHES [L.S.]
HENRY CABOT LODGE. [L.S.]
OSCAR W UNDERWOOD [L.S.]
ELIHU ROOT [L.S.]
A M JAMES BALFOUR [L.S.]
LEE OF FAREHAM. [L.S.]
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[L.S.] RENÉ VIVIANI
[L.S.] A. SARRAUT
[L.S.] JUSSERAND
[L.S.] T. KATO
[L.S.] K. SHIDEHARA.
[L.S.] TOKUGAWA IYESATO
[L.S.] M. HANIHARA

The treaty was much discussed in the United States immediately after it was signed and made public. One of the preoccupations of the American press was to conjecture whether Japan secured an advantage under the treaty, so that its metropolitan island area would be included in the term "insular possessions." As none of the other states parties to the treaty were island empires, the interpretation referred to would have the effect of giving Japan a guaranty of her mainland which was possessed by none of the others. The question was put to President Harding at one of the biweekly interviews of correspondents with the Chief Executive. The President was positive that the Japanese mainland was not included in the treaty of guaranty. The correspondents, however, immediately learned that the American plenipotentiaries were of the opposite opinion. The American public was favorable to the President's interpretation, and it therefore transpired that at the close of the conference a supplementary treaty was signed on February 6, 1922, in the following terms[1]:

The United States of America, the British Empire, France and Japan have, through their respective plenipotentiaries, agreed upon the following stipulations supplementary to the quadruple treaty signed at Washington on December 13, 1921:

The term "insular possessions and insular dominions" used in the aforesaid treaty shall, in its application to Japan, include only Karafuto (or the southern portion of the island of Sakhalin), Formosa and the Pescadores, and the islands under the mandate of Japan.

The present agreement shall have the same force and effect as the said treaty to which it is supplementary.

The provisions of Article IV of the aforesaid treaty of December 13, 1921, relating to ratification shall be applicable to the present agreement, which in French and English shall remain deposited in the archives of the Government of the United States, and duly certified copies thereof shall be transmitted by that Government to each of the other contracting powers.

In faith whereof the respective plenipotentiaries have signed the present agreement.

Done at the City of Washington, the sixth day of February, One Thousand Nine Hundred and Twenty-two.

[1]Sen. Doc. 126, 67th Cong., 2nd sess., p. 892.

When the Senate of the United States came to consider the treaty it advised and consented to ratification with the following interpretative reservation:

The United States understands that under the statement in the preamble or under the terms of this treaty there is no commitment to armed force, no alliance, no obligation to join in any defense.

No other state felt any such doubt, and the ratifications of the other parties contain no similar attempts at interpretation.

In signing the treaty, the delegates of the United States felt it desirable to specify two points upon which the Washington Government particularly wished to insist in order to meet the point of view of the Senate. These points were accepted by the other Governments, and the following declaration was accordingly signed simultaneously with the treaty and by the same plenipotentiaries[1]:

In signing the treaty this day between The United States of America, The British Empire, France and Japan, it is declared to be the understanding and intent of the signatory powers:

1. That the treaty shall apply to the mandated islands in the Pacific Ocean; provided, however, that the making of the treaty shall not be deemed to be an assent on the part of The United States of America to the mandates and shall not preclude agreements between the United States of America and the mandatory powers respectively in relation to the mandated islands.

2. That the controversies to which the second paragraph of Article I refers shall not be taken to embrace questions which according to principles of international law lie exclusively within the domestic jurisdiction of the respective powers.

The United States Senate did not regard this declaration as sufficient, and in advising and consenting to the ratification of the treaty, repeated these terms as a part and condition of its resolution respecting the supplementary treaty.

The four states parties to this Pacific treaty had drawn a line between themselves and other states having possessions among the islands of the Far East. The Netherlands and Portugal, both represented at the Washington Conference, have such possessions.

Those two Governments, reflecting the public opinion of their

[1]Sen. Doc. 126, 67th Cong., 2nd sess., p. 892.

peoples, raised the question as to why they were not included in the agreement. Public opinion in those countries went so far as to consider whether the bigger states had not excluded these two small ones with a view to the acquisition of their territory. To allay all doubts the American, British, French and Japanese ministers presented to the minister for foreign affairs of the Netherlands on February 4, 1922, and to the minister for foreign affairs of Portugal on February 6, identic notes, *mutatis mutandis*, in the following terms[1]:

The United States of America have concluded on December 13, 1921, with the British Empire, France, and Japan, a treaty, with a view to the preservation of the general peace and the maintenance of their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean. They have agreed thereby as between themselves to respect their rights in relation to these possessions and dominions.

The Netherlands not being signatory to the said treaty and the Netherlands possessions in the region of the Pacific Ocean therefore not being included in the agreement referred to, the Government of the United States of America, anxious to forestall any conclusion contrary to the spirit of the treaty, desires to declare that it is firmly resolved to respect the rights of the Netherlands in relation to their insular possessions in the region of the Pacific Ocean.

The favorable action of the French Parliament upon this treaty, just before the summer recess, which began July 14, 1923, completed all requisites for the exchange of ratifications of the treaty; and this will be effected at Washington at a time convenient to the parties.

[1]Sen. Doc. 128, 67th Cong., 2nd sess., p. 3.

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Vol. VI 1923 No. 3

THE CORFU CRISIS

THE COUNCIL OF THE LEAGUE OF NATIONS AND CORFU

By A. LAWRENCE LOWELL

HOW THE LEAGUE OF NATIONS MET THE CORFU CRISIS

By MANLEY O. HUDSON

DOCUMENTS

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By vote of the Board of Trustees the title "League of Nations" is discontinued with the current issue. The World Peace Foundation is American agent for the official publications of the League of Nations and the former title led to some confusion.

THE COUNCIL OF THE LEAGUE OF NATIONS AND CORFU

By A. Lawrence Lowell

Many earnest friends of the League of Nations were at first disappointed that it did not take more decisive action in the Italo-Greek crisis. This was, indeed, at the time the feeling of the writer; but before forming an opinion on the subject, it is important to consider the nature of the problem presented to the League.

When the Council met it was confronted by a condition not more unexpected politically than it was in its legal aspect. With the occupation of Corfu in mind, it is impossible, in reading the articles of the Covenant, not to see that its framers contemplated no hostile movements except war. When they speak of aggression, of rupture, of a resort to war, they evidently had in mind in all three cases the same class of action. To the ordinary man any aggression by one state upon another seems to be an act of war, and the committing of such an act to cause a state of war; but the rules of international law recognize hostile acts by one nation upon another which do not constitute war, although they may be treated as war by the offended party if it pleases. Such are reprisals by one state upon another to prevent the repetition of offensive acts, to secure reparation for such acts, or to compel the performance of an obligation. "An act of reprisal may be performed against anything and everything that belongs to or is due the delinquent state or its citizens."[1]

[1]Oppenheim, International Law (3d Ed.), Vol. 2, p. 48.

One of the best-known forms of such a reprisal, one that can be put into effect without involving a condition of war, is what is known as "pacific blockade." This practice was first used by England in 1827, and during the last century was resorted to about a dozen times, in most cases without leading to war. A description of it, and a discussion of the rights and duties to which it gives rise as between the nations concerned, and the extent to which it affects neutral vessels, may be found in any treatise on international law.

Another form of reprisal that has been less frequently resorted to is that of a forcible but temporary occupation of the territory of the delinquent state in order to compel it to perform its obligations, or make redress for an injury.

To cite three recent instances of such acts on the part of great nations: In March, 1895, the British minister in Central America presented to the Government of Nicaragua an ultimatum demanding $15,500 reparation for the expulsion of Mr. Hatch, the British vice consul at Bluefields, and for other injuries. The Government of Nicaragua refusing to comply, three British warships landed marines and occupied the town of Corinto. After an occupation of about a month, Nicaragua accepted the ultimatum and the British forces withdrew.

Another instance occurred in 1901. Owing to the failure of the Turkish Government to carry out certain engagements made by its foreign minister in regard to the claims of French merchants, the French Ambassador was recalled from Constantinople in September and the Turkish minister at Paris received his passports. A few weeks later, on November 5th, Admiral Caillard occupied Mytilene, seizing the custom-house buildings, and in three days Turkey yielded on all points.

The last case before Corfu was the occupation of Vera

Cruz by the United States troops in 1914. This resulted from the arrest by Mexican authorities of two American sailors at Tampico. Thereupon, on April 21st, United States troops were landed at Vera Cruz, and a conflict ensued with the Mexican troops. It is notable that in this case the employment of armed forces by President Wilson was approved by a resolution of Congress, which, however, expressly declared that "the United States disclaims any hostility to the Mexican people or any purpose to make war upon Mexico."

The Italian Government claimed that its action was in accordance with the precedents thus set. General Tellini and his companions were shot while on Greek soil, and the Italian Government demanded redress, which Greece refused. Thereupon Italy seized Corfu, declaring that it was a temporary occupation made to secure a pledge, and was not intended as war.

Now let us consider the provisions of the Covenant and the position of the League; for the question was not whether the action of Italy was justifiable or not, but what action the League was under an obligation to take, and what action it was at liberty to take, under the circumstances. Article X of the League covenant provides:

> The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

By external aggression the framers must be supposed to have had in mind acts of war; and by preserving the territorial integrity they must be supposed to have intended the prevention of permanent seizure of territory, because

one can hardly assume that they meant to include under aggression—and thereby abolish—a well-recognized practice of pacific reprisals. If they had intended such a change in international law, they would doubtless have said so.

Much the same may be said of Article XVI. When conflicts or disputes likely to lead to war occur between nations, the Covenant prescribes two distinct courses of action, and two different obligations have been assumed by the League or its members. One of them arises under Article XVI, where one nation, contrary to the provisions of the Covenant, has resorted to war against another. Although this would not usually happen until the Council of the League had had an opportunity to bring about a peaceful adjustment of the dispute, it may at times be otherwise, and was in this case. In the controversy between Italy and Greece the occupation of Corfu did in fact take place so quickly after the murder of the Italian officers that the Council of the League had no opportunity to intervene before it occurred. It is well therefore to examine Article XVI carefully inasmuch as, if applicable, it would seem to have called for immediate action. The first paragraph of that article reads:

> Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.

Two things may be observed about these terms. First, that the obligation rests, not upon the Council, but upon

the several Members of the League, the Council being merely authorized by the second paragraph "to recommend to the several Governments concerned" what military force they shall severally contribute. Each of the Members agrees, when the condition arises, to boycott, or in effect blockade, the offending nation. The obligation is joint and several on the part of the Members, and is absolute; but clearly they must be satisfied in their own convictions that the condition calling for action has in fact arisen. In the second place, it may be observed that the obligation to boycott or blockade attaches only if the offending nation actually resorts to war. Obviously, the drastic action provided for by the article is not to be undertaken unless the resort to war is perfectly clear. It is not enough for a nation to claim that it has been attacked, or that hostile acts have been committed on its territory, unless those acts constitute clearly a resort to war.[1]

Now, as we have seen, Italy claimed that the seizure of Corfu was not a resort to war, but a specific reprisal; and in view of the precedents cited for such action, it was impossible to assert that it was clearly a resort to war as the term is used in international law. It is unreasonable to blame the League for not instantly acting on the theory that the claim of Italy was wrong, and that her conduct was undoubtedly a resort to war, when France, England and the United States had done similar acts, insisting that

[1]It is interesting to observe that Nicolas Politis, the Greek representative on the Council, speaking at the afternoon meeting of the Council on September 1, 1923, took substantially this position:

"I am aware that in an official communiqué published, I believe, yesterday at Rome, the acts of violence which have just been committed against Greece are described as pacific acts of a temporary character.

". . . The Greek Government was accordingly inclined to profit by the doubt which might exist as to the character of the acts committed by the Italian Government, in order not to take the initiative in asking for the application of Article 16. . . ."

they were not war. It is unfair, therefore, to say that under these conditions the Members of the League were bound to put Article XVI into effect, that not to do so was a failure to carry out the obligations of the Covenant, or that these will not be lived up to in the future. The controversy has drawn the attention of the world to a condition of international law which permits compulsion through hostile acts by a large nation against a smaller one without incurring the responsibility of war,—action which a smaller nation can not take against a larger one because it would inevitably result in war and defeat. With a League of Nations ready to inquire and adjudge in cases of grievance, there should be no reason why a large nation should be at liberty to resort to forcible measures of compulsion against a smaller one.

The other provisions of the Covenant in regard to disputes likely to lead to war are found in Articles XI–XV of the Covenant which deal with attempts to prevent war by adjusting disputes before hostilities have taken place. Evidently they do not contemplate a case of pacific aggression such as Italy claimed had occurred in her occupation of Corfu, but they cover such a case. The provisions of these articles are of quite a different character from that of Article XVI, for they impose no immediate obligations upon the several members of the League not parties to the dispute, but prescribe the duties of the Council, and, if need be, of the Assembly. Italy claimed that the Council had no jurisdiction in the case, because it had already been referred to the Conference of Ambassadors; but this can hardly be maintained in view of the provision in Article XI that it is "the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international rela-

tions which threatens to disturb international peace or the good understanding between nations upon which peace depends." It can hardly be contended that the seizure of Corfu did not threaten to disturb international peace; nor that if it is the friendly right of a member to bring the matter to the attention of the League, the League has no right to discuss it and take action. Yet that was in effect Italy's claim. The fact that a third party is striving to adjust the dispute may be a very excellent reason why it should be inexpedient for the Council to take action, but it is certainly not one that destroys its legal right to consider the matter.

On the other hand, the procedure of the Council is not prescribed. It is clearly at liberty to resort to any means it thinks best for bringing about a peaceful solution; and if, as in this case, the parties to the dispute have agreed to lay the question before any other body, the Council is wholly justified in waiting to see whether an adjustment can or can not be reached in that way. Its duty is simply, by the best method it can find, to reduce friction and assure a just peace. This is what the Council did in the dispute between Italy and Greece.

HOW THE LEAGUE OF NATIONS MET THE CORFU CRISIS[1]

By Manley O. Hudson

It depends on what one thinks the League of Nations is. Those people who regard it as a superstate must of course be disappointed in the part which the League has played in the Greco-Italian crisis. A superstate would doubtless have demonstrated against the Italians in Corfu with an internationalized British-French-Japanese navy. But those people who regard the League as a method of international life, who believe in maintaining it as a machinery for conference, consultation and conciliation, may take satisfaction in the record which the League has recently made. For the new method of handling international crises has been put to a test, the machinery has worked, and the outcome is on the whole gratifying. The world has passed through another Serajevo. It has read another ultimatum and seen another failure to comply with it. It has lived through another attempt to use the strong-arm tactics. But it has escaped another war.

The facts need summarizing, and one must dig himself out of a morass of misplaced emphasis and misleading headlines. I shall use the official documents for this purpose.

The Conference of Ambassadors and Albania

A commission composed of representatives of several allied countries had been sent to Albania by the Conference

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of Ambassadors, to delimit on the spot the boundary between Albania and Greece. What is this Conference of Ambassadors? One will not find its powers and functions defined or established by any formal document. It is a self-appointed body, acting sometimes in the name of "the Powers," but usually in the name of "the Allied Powers." When the Supreme Council of Allied Premiers and first delegates to the Peace Conference had dissolved, the ambassadors of Great Britain, Italy and Japan at Paris, with a prominent representative of the French Foreign Office, continued to meet at the Quai d'Orsay to deal with questions relating to the completion and the execution of the peace treaties and with other questions of "general interest." For a time the Amercan ambassador participated; latterly a representative of the American Embassy has usually attended to keep the Washington Government informed, and occasionally to express its views. Diplomatic representatives of other Powers have occasionally participated in the Conference, when questions especially affecting them were being considered.

Origin of the Dispute

Before the War, in 1913, a conference of the ambassadors of the Powers at London had set up Albania as a new state; but its boundaries had not all been definitively laid out on the ground when the War again threw the whole question of Albania into the cauldron. The Peace Conference found no time to deal with this waif on the international doorstep. So the problem of Albania was one of the "matters of general interest" to come before the Conference of Ambassadors. The Albanians themselves petitioned to have an international settlement of their position. When the attempts of various Powers to carve up Albania had ceased, when she had been admitted to membership in the League

of Nations, the Conference of Ambassadors proceeded to establish her boundaries and to carry through the necessary negotiations to have them agreed to by her neighbors. It was in the period of these negotiations that the Council of the League successfully intervened in 1921, to prevent a war between Jugo-Slavia and Albania in which other countries might have joined. A delimitation commission was sent out by the Conference of Ambassadors to fix on the spot the boundary between Albania and Greece, and it was the Italian members of this commission who were shot and killed by an unknown person on Greek soil a few miles from the Albanian frontier, on August 27, 1923.

The horror of the murder immediately sent a shudder through the people of Italy, and Italian opinion was soon wrapped in a flame of indignation. There was already a great deal of anti-Greek feeling in Italy. The difficulties about the Dodecanese Islands and other questions had not helped the governmental relations of the two countries. A revolution had recently occurred in Greece, and the Greeks were distrusted by the Italians. In fact, the general attitude in Italy toward the Greeks was very similar to the general attitude in the United States toward the Mexican "greasers" in 1914 and 1915. Moreover, a government was in power in Italy which was making a great effort to restore Italian pride and prestige, and to convince the world that Italy was in fact as well as in form a Great Power. Many Italians have felt that Italy was used in the war by other Powers and then taken on a snipe hunt during the Peace Conference. They were glad of an opportunity therefore for their government to exert its independent will. Greece's action offered a special opportunity.

Demands of Italy on Greece

The Italian Government did not wait for the Conference of Ambassadors to deal with the situation. On August 29, two days after the murder, the Italian Government addressed a note to the Greek Government demanding:

1. An official apology.
2. A formal memorial service.
3. Honors to the Italian flag.
4. Inquiry by Greek authorities in the presence of an Italian military attaché, to be carried out within five days.
5. Capital punishment of the murderers.
6. An indemnity of fifty million lire to be paid within five days.
7. Military honors to the Italian victims.
8. A reply within twenty-four hours.

The Greek reply of August 30 did not meet three of the Italian demands, and the Greek Government informed the Italian Government that if the satisfaction offered was not recognized as adequate, the Greek Government would appeal to the League of Nations. On August 30, the Conference of Ambassadors dealt with the situation, requesting that the Greek Government hold an immediate inquiry, and reserving the consideration of penalties which Greece ought to pay. On the same day, however, the Italian Government, deeming the Greek reply to its ultimatum unsatisfactory, ordered the occupation of the Greek Island of Corfu.

The precise events at Corfu are of interest, though the versions differ. The Greek statement is that an Italian officer visited the Prefect of the Island of Corfu at 3.00 P.M., on August 31, informing the Prefect in writing of the intended occupation; that the Prefect replied that he could only oppose with passive resistance, and that refugees were

stationed in the garrison and in the fortress. The Italian officers left the prefecture at 4.15, informing the Prefect that at 5.00 P.M., three blank shots would be fired, and, unless a white flag were shown, bombardment would follow. The Italian version is that the firing was directed against the fortress, and that the Italians had no information as to the presence of refugees in the fortress. At any rate, certain refugees were killed, and the Italian Government later stated to the Council of the League, on September 4, that assistance would be offered to the families of the killed and wounded.

Nature of Measures Taken by Italy

The Italian occupation of Corfu was represented to be a pacific measure undertaken for the purpose of forcing Greece to make reparation. The Italians said that Corfu would be held temporarily as a pledge, that they had no intention to go to war, but that it was necessary to show the Greeks that they meant business.

For this Italian action there had been various precedents in the history of the last fifty years. It is unnecessary to enumerate the several instances in which Powers, particularly the Great Powers, have seized the territory of smaller Powers, pending the fulfillment of demands for "justice." These instances have not resulted in what could be dignified with being called "a state of war," because the smaller Power either could not or would not fight. Italians in Geneva frequently spoke of the American action at Vera Cruz in 1914 as a precedent, and they referred to the resolution of the Congress of the United States of April 26, 1914, authorizing the President to employ "the armed forces of the United States to enforce his demand for unequivocal amends for certain affronts and indignities committed against the United States." And did not all the books on

international law speak of pacific blockade and other pacific measures of redress short of war?[1] It may be assumed that the authorities in Rome did not contemplate the killing of refugee children in directing the seizure of Corfu. No more did the American Government foresee the loss of life in Vera Cruz. Those are incidents of naval activity. They are not ends to be served.

On the morning of September 1, the Greek Government appealed to the Council of the League of Nations, under Articles 12 and 15 of the Covenant. It was the world's good fortune that the Council was in session that very morning. When the Council met at 11 o'clock, the appeal had been received by the Secretary-General, but there had not been time to distribute copies. The Council decided to meet at 4 o'clock in the afternoon for that purpose, and the Greek representative was asked to take his place as a member of the Council during the discussion of the dispute. The question arose as to whether the session should be public or private (minutes of all private sessions of the Council are made public immediately afterward). It was decided that the first session for exchange of views should be private. Before the afternoon session, officials of the League arranged for M. Politis (Greece) and M. Salandra (Italy) to meet for an exchange of views, a meeting which it would have been difficult to arrange in either Athens or Rome.

The Question before the Council of the League

At the Council, M. Politis disclaimed any reliance on Article 16 relating to economic boycott, but placed the case on Articles 12 and 15. M. Salandra said that he was without information and instructions and therefore asked that the discussion be postponed. He stated that the

[1]See Hyde, International Law, Volume II, p. 166 ff.

Conference of Ambassadors had already begun to consider the question at a meeting in Paris, and asked whether the results of its inquiry could not be awaited. He also made an unfortunate reference to the special position of a Great Power. Lord Robert Cecil (Great Britain) and Mr. Branting (Sweden) at once spoke very vigorously about the necessity of a state's following the League's process of conciliation before going to war. But they concurred in the decision of the Council to await M. Salandra's receipt of instructions, to assent to a short adjournment of the question, and to express the hope that no act of violence would be committed in the interim.

The following Monday, September 3, was the day of the opening of the Fourth Assembly. When the Council met on Tuesday, September 4, M. Salandra said that his instructions had not yet arrived from Rome, though he had dispatched one of his colleagues to Rome to obtain full instructions from his government. He asked for a further adjournment, insisting that inasmuch as the Conference of Ambassadors was continuing to deal with the case, the Council was not competent. Lord Robert Cecil insisted that further discussions should be conducted in public. The meeting was then opened to the public, and both M. Salandra and M. Politis made statements as to their positions. At the end of an acrimonious debate, the Council deferred action.

On September 5, the Council again met in public, having received from the Conference of Ambassadors a communication concerning the progress of its deliberations. M. Salandra made a much fuller statement, contending that the Conference of Ambassadors was a party to the dispute and was acting as such; that the three parties, Italy, Greece and the Conference of Ambassadors, should be left to reach a settlement by themselves, and that until the Conference

of Ambassadors had acted, the Council of the League was incompetent. He declared that the occupation of Corfu had no hostile character, that it was merely designed to assure reparation for a terrible crime, and that there was no danger of war. He finished by saying: "The Italian Government irrevocably expresses the opinion that the Council of the League of Nations should not proceed to take action on the request of Greece." M. Politis did not then attempt to reply to this statement, which had been carefully drafted. Lord Robert Cecil asked to have Articles 10, 12 and 15 of the Covenant read; and the dramatic effect of this reminder of the obligations of members of the League must have gone home in Italy.

Action Taken by the Council

On September 6, when the Council met in public, M. Quiñones de Leon (Spain) read a resolution setting forth the measures which ought to be taken by Greece and Italy, proposing a basis of settlement. He stated that he had drafted this resolution in consultation with several of his colleagues on the Council. The Belgian and the Uruguayan representatives strongly supported the competence of the Council, as did the French representative, whose attitude had theretofore been silence. It was evident that M. Quiñones' proposals represented the opinion of most of the members of the Council, and that the smaller states, particularly the Scandinavian and Latin-American, were ready to support the Council. No objections to the adequacy of the proposals were developed. While they were not adopted as a definitive program of the Council, it was decided to communicate them to the Conference of Ambassadors, which was in a sense a third party to the dispute and which had throughout continued its consideration of

the whole problem though without reaching any solution. As soon as the Council adjourned, the records of its meeting, of M. Quiñones' proposals, and the discussion which they had provoked, were dispatched to Paris, for a meeting of the Conference of Ambassadors the next day. The latter body at once adopted the proposals in substance, practically as they had been placed before the Council of the League. The decision of the Conference of Ambassadors was communicated to Greece and Italy, both of which acquiesced in it almost immediately. The Council of the League was informed of the decision and expressed its satisfaction that so favorable an outcome had been achieved on the basis of its work.

Had Italy Violated the Covenant?

It was to be expected that the action of the Council of the League in thus proceeding would be criticised. Some people regarded the Italian action as a violation of the Covenant. It was said to be a violation of Article 10, by which the Members of the League agree to respect and preserve as against external aggression the existing political independence and the territorial integrity of Members of the League. Italy's reply was that no disrespect for Greece's territorial integrity was involved; that Corfu was being seized merely as a pledge for Greece's making reparation to Italy; and that the occupation would be withdrawn as soon as the Italian demands were met. In some quarters it was said that Italy had violated Articles 12 and 15 of the Covenant by going to war without first submitting the question to the League. The Italians' position was that they had not gone to war, and that similar action by various Powers in the past had not been so regarded. Even if the bombardment of Corfu was an "act of war," which Italy denied, it

had not produced a "state of war" and could not be considered as a "resort to war," for the occupation was completed without Greek opposition. Nor was there any "threat of war," within the language of Article 11 of the Covenant. This recalls the query of the Chinese delegate at the second Hague Conference in 1907 as to the effect of a declaration of war by state A against state B, when state B refuses to acknowledge that a state of war exists. On September 18, M. Salandra stated the Italian position to be that no act of war and no violation of international law or of the Covenant had taken place.

If it seems doubtful whether the Italian action ought to be regarded as a violation of any article of the Covenant, it is nevertheless clear that the action was a jeopardizing of the peace of the world; that the precedents antedating the establishment of the League did not justify it; and that under Article 11 as well as under Articles 12–15 the Council of the League was beyond any reasonable doubt competent to deal with the danger to the world's peace which it involved.

Did the Council Shirk its Responsibility?

It has also been objected that the Council itself ought to have promulgated the Quiñones proposals, instead of sending them on to the Conference of Ambassadors for that body to put them out. But the people who make this argument forget that the Conference of Ambassadors itself was a party in interest. Its authority had been challenged by the murder of the Italian officers, and it had charged itself with the problem before the Greeks appealed to the Council of the League. Any procedure ignoring the Conference of Ambassadors might have been resented by the latter, even though all the governments acting at

Paris were also represented in Geneva. *Amour propre* is not to be neglected in such situations. But an additional reason existed in that feeling in Italy was running high against the League, and a decision formulated in Paris was perhaps more likely to be accepted in Rome than a decision formulated in Geneva. The important thing was to redress the wrong in such a way as to keep Greece's territory intact and preserve the peace. It was the duty of the Council to avail itself of every possible assistance in reaching this result. As it has turned out, events have vindicated the judgment of the Council. If the three parties, Greece, Italy and the Conference of Ambassadors, had not agreed on a solution, it would then have been for the Council to press on with its own work. But fortunately an agreement was reached, and on the basis of the Quiñones proposals which originated in the Council.

It was of course possible for the Council itself to have expressed disapproval of the precipitate action taken by Italy. But M. Mussolini had been reported in the press as saying that if the Council should "continue to exert its competence, Italy was faced with the problem of remaining in or leaving the League of Nations. I have already decided in favor of the latter course." If this threat was meant, of course it was serious; but few states have more to gain from their membership in the League than Italy, and if the statement was made at all, it may have been "tall talk." A more serious consideration was the possibility that the Italians would remain in Corfu, and the course of the Council was largely due to this fear. The Council desired results rather than an increase of its own prestige. Its function was to conciliate rather than to judge.

Text of the Quiñones Proposals Forwarded by the Council

The Quiñones proposals should be carefully compared with the solution adopted by the Conference of Ambassadors. The Quiñones proposals of September 6, of which the first two paragraphs were definitively adopted, were as follows:

> The Council takes note of the communication made to it yesterday by the Conference of Ambassadors, and, recognising the principle of international law according to which States are responsible for the political crimes and outrages committed within their territory, declares its intention of investigating, in conjunction with the Conference, the manner in which the enquiry should be carried out.
>
> It would be glad to receive information as to the deliberations of the Conference of Ambassadors on Friday next.
>
> The Council further desires to submit to the Conference for consideration the following suggestions as to the possible means of giving satisfaction to the demands of the Conference for reparations from Greece in consequence of the attack made at Janina on Greek territory against the President and Italian members of its Commission:
>
> (1) The presentation of apologies by the highest Greek authorities to the Ministers of the three Powers represented on the Delimitation Commission;
>
> (2) The celebration of a funeral service at Athens in honour of the victims, in the presence of all the members of the Greek Government;
>
> (3) The giving of a salute by the Greek fleet in accordance with conditions to be determined later;
>
> (4) The rendering of military honours when the bodies of the victims are embarked at Prevesa;
>
> (5) The appointment by the Greek Government of a Commission of Enquiry to investigate on the spot the circumstances preceding and accompanying the crime; the supplementing of this Commission by

representatives of the three Powers concerned, as mentioned in the telegram in question;

(6) The appointment of representatives of the League of Nations to supervise in Greece the judicial enquiry already ordered by the Greek authorities and the trial of the guilty parties;

(7) The immediate deposit by Greece in a Swiss bank of a sum of 50 million lire as security for the immediate payment of any indemnity which may be fixed;

(8) The submission to the Permanent Court of International Justice, for decision under the rules of summary procedure, of the question of the indemnity to be paid by Greece.

Text of the Decision of the Conference of Ambassadors

The decision of the Conference of Ambassadors of September 7 pronounced the crime to have been "clearly a political crime" and required the following reparations and penalties of Greece:

(1) Apologies shall be presented by the highest Greek military authority to the diplomatic representatives at Athens of the three Allied Powers, whose delegates are members of the Delimitation Commission;

(2) A funeral service in honour of the victims shall be celebrated in the Catholic cathedral at Athens in the presence of all members of the Greek Government;

(3) Vessels belonging to the fleets of the three Allied Powers, the Italian naval division leading, will arrive in the roadstead of Phalerum after 8 o'clock in the morning on the day of the funeral service;

After the vessels of the three Powers have anchored in the roadstead of Phalerum the Greek fleet will salute the Italian, British and French flags with a salute of 21 guns for each flag;

The salute will be returned gun by gun by the Allied vessels immediately after the funeral service, during which the flags of the Greek fleet and of the vessels of the three Allied Powers will be flown at half-mast;

(4) Military honours will be rendered by a Greek unit carrying its colours, when the bodies of the victims are embarked at Prevesa;

(5) The Greek Government will give an undertaking to ensure the discovery and exemplary punishment of the guilty parties at the earliest possible moment;

(6) A special Commission consisting of delegates of France, Great Britain, Italy and Japan and presided over by the Japanese delegate, will supervise the preliminary investigation and enquiry undertaken by the Greek Government; this work must be carried out not later than September 27th, 1923.

The Commission appointed by the Conference of Ambassadors will have full powers to take part in the execution of these measures and to require the Greek authorities to take all requisite steps for the preliminary investigation, examination of the accused, and enquiry. It will submit its report and conclusions to the Conference of Ambassadors;

The Greek Government will guarantee the safety of the Commission in Greek territory. It will afford it all facilities in carrying out its work and will defray all the expenditure thereby incurred.

The Conference of Ambassadors is forthwith inviting the Albanian Government to take all necessary measures to ensure that the Commission, duly accredited for this purpose, will be able, should it consider such action necessary, to proceed to Albanian territory, and in agreement with the Albanian authorities, there conduct any investigations as are likely to assist in the discovery and punishment of the guilty persons.

(7) The Greek Government will undertake to pay to the Italian Government, in respect of the murder of its delegates, an indemnity, of which the total amount will be determined by the Permanent Court of International Justice at The Hague, acting by summary procedure. The Court will give judgment on consideration of the report of the Commission specified in paragraph 6. This report will be transmitted by the Conference of Ambassadors, with its comments, to the Court of Justice.

The Greek Government will deposit forthwith, as security, at the Swiss National Bank, a sum of 50,000,000 Italian lire, such deposit to be accompanied by the

following instructions: "to be paid over, in whole or in part, to the Italian Government, upon the decision of the Permanent Court of International Justice at The Hague."

The Conference, having taken note of the fact that the Italian Government confirms that the occupation of Corfu and the adjacent islands has no other purpose than that of obtaining fulfillment of the demands which the Italian Government has submitted to the Greek Government, and that these demands are covered by the above conditions laid down by the Conference, invites the Greek Government forthwith to inform, severally and simultaneously, all the diplomatic representatives of the three aforesaid Powers at Athens that it accepts these conditions in their entirety.

Later Action by the Conference of Ambassadors

This decision differs from the Quiñones proposals chiefly in that the judicial inquiry is not to be conducted by the League of Nations. It represents a wide departure from the original demands of Italy. The decision did not take care of the evacuation of Corfu, and after a few days it became clear that supplementary action was needed in this respect. The Italians were pressed both at Paris and at Geneva to agree on a definite day for the evacuation; and inasmuch as the work of the commission of investigation was to be completed by September 27, that day was set. On September 13, the Conference of Ambassadors secured the Italians' agreement to evacuate Corfu by September 27, and drew up the following decision for communication to the Greek Government, to which the Greek and Italian Governments assented:

The Conference, having taken note of the acceptance by the Greek Government of the conditions set forth in the Note addressed to it on September 8th, and having also noted the request submitted by the Greek Government with reference to the evacuation of the island of Corfu, and having further taken note of the letter from

the Greek Minister in Paris, dated September 11th, which is principally concerned with the payment of 50 million Italian lire into the Swiss National Bank under the conditions laid down, has the honour to inform the Greek Government that the Allied Governments are no less anxious than the Greek Government to bring to an early conclusion the abnormal situation created by the crime committed on August 27th, and that the evacuation of Corfu will take place as soon as the conditions laid down in the Note of September 8th have been fulfilled in the following manner:

(1) The Allied Diplomatic Representatives at Athens will fix, in consultation with the Greek Government, the date on which they are to receive the expressions of regret for which provision is made in the Conference's Note, and which will be offered not later than September 18th;

(2) The funeral service in honour of the victims will be held at Athens on September 19th, at 10.30 A.M.;

(3) The warships of the three Allied Powers will arrive in the harbour of Phalerum on the same day, and the details regarding the fulfillment of the third condition will be communicated to the Greek Minister in Paris;

(4) Honours will be paid to the bodies of the victims on September 19th, on which day they will be placed on board ship at Prevesa;

(5) The Inter-Allied Commission of Control will enter upon its work at Janina on September 17th, not later than five days after its arrival, and will submit a telegraphic report on its initial conclusions. Should the authors of the crime not yet have been traced, the Commission will state under what conditions its investigations have been carried out, and the Conference, having seen the report, will decide whether the fifth condition contained in its Note of September 8th can be regarded as having been fulfilled. Should this condition not have been fulfilled, in view of the Italian Government's statement that it would, in any event, evacuate Corfu on September 27th, the date fixed by the Conference of Ambassadors for the conclusion of the Greek enquiry, the Conference reserves the right to notify Greece of any other measures of a coercive or punitive nature which may be taken against her by the Allied Powers. Such meas-

> ures may consist, in particular, in the payment to Italy of a sum of 50 million Italian lire, and in that case the Conference will request the Permanent Court of International Justice at The Hague to restore to Greece the security deposited by her, and no further application will be made to The Hague, as stated in paragraph 7 of the Note of September 8th, unless any special application is made to the Court by Italy for charges entailed by the occupation.

On September 25, the Conference of Ambassadors considered the report of the commission of investigation, and on September 26, it was decided that as a consequence of the negligence of the Greek Government in pursuing the authors of the crime, as indicated by a report of the Commission of Control of September 22, the entire 50,000,000 lire should be awarded to Italy. The resolution of the Conference requested the Permanent Court of International Justice to order the Swiss National Bank to pay that sum to Italy. In pursuance of this decision the Italians were paid this amount on September 27, and the evacuation of Corfu was effected on that day.

The settlement finally acted upon differs quite materially from the original demands of the Italians. The susceptibilities of Greece have been saved by the provisions for the conduct of the investigation, and not only has Greece's territory been restored to her, but the Greek people have had the satisfaction of having their case dealt with in an orderly way, by bodies of international responsibility. They may still regard the settlement itself as onerous, but it is no longer the result of the process of self-help which Italy had embarked upon.

The Rôle of the International Court

No question was sent to the Permanent Court of International Justice, either by Italy or Greece, or by the Powers

represented in the Conference of Ambassadors. The Conference decision of September 7 called for the Court's determination of the amount due to Italy. But this was modified by the decision of September 13, which merely reserved to Italy the privilege of appealing to the Court with reference to the costs of the occupation of Corfu. Yet the existence of the Court has been an important factor in facilitating the settlement agreed upon. Fresh proof is thus given that even in the settlement of political disputes it is important to have at hand machinery for adjudicating the by-product of legal questions which almost every dispute involves. Perhaps it is in this way that its chief contribution to maintaining peace will be made by the Permanent Court of International Justice.

But the action of the Italians in challenging the jurisdiction or competence of the Council has raised a very important question which has aroused particularly the governments of some of the smaller Powers, and it seemed to necessitate some authoritative pronouncement. For some people it is not enough that the Council did act, did go upon the basis that it was competent. The dispute was not debated in its critical stages before the Assembly of the League. Indeed, several meetings of the Assembly were postponed by the Assembly's general committee of which M. Torriente (Cuba) was president, in order that the Council might proceed with its work. But in the closing days of the Assembly, the demand was voiced for a definite and explicit answer to the Italian challenge.

The Challenge to the Competence of the League

Perhaps this part of the Italian position did not represent views seriously held in Rome. M. Salandra may have been sparring for time and for position when he advanced it.

Litigants in court with difficult cases to defend frequently deny the jurisdiction of the tribunal. There can be so little doubt about the applicability of Articles 12 and 15 of the Covenant to the appeal of Greece, or even of Article 11 independently of Greece's appeal, that it seems difficult to believe that Italian lawyers really held the view that the Council was not acting wholly within its powers when it took and exercised jurisdiction. Yet the statements attributed to the Italian Premier on September 4 produced the unfortunate impression that Italy was not willing to have any question taken up by the League.

As soon as it became clear that peace was no longer in jeopardy, the Council began to consider the challenge. On September 22, the Council decided to ask the legal advisers present in Geneva to frame questions which might be submitted to the Permanent Court of International Justice, arising out of the whole situation. During the week of September 24–29, the submission of these questions to the Permanent Court of International Justice for an advisory opinion was debated in the Council. On September 28, Viscount Ishii (Japan) acting as President of the Council of the League, announced to the Assembly that the Council had decided to submit certain questions to a special commission of jurists of which each state represented on the Council should name one member, and which should report to the next meeting of the Council in December. The Italians opposed the attempt to clear up the questions which they themselves had raised, but finally acquiesced. M. Salandra seems to have contended that the questions were political and not legal, and too vague for the Court to pronounce upon.

The questions submitted to the new Committee of Jurists are as follows:

(1) Is the Council, when advised at the instance of a Member of the League of Nations of a dispute submitted in accordance with the terms of Article 15 of the Covenant by such Member as likely to lead to a rupture, bound, either at the request of the other party or on its own authority and before inquiring into any point, to decide whether in fact such description is well founded?

(2) Is the Council, when seized of a dispute in accordance with Article 15, paragraph 1, of the Covenant at the instance of a Member of the League of Nations, bound, either at the request of a party or on its own authority, to suspend its inquiry into a dispute when, with the consent of the parties, settlement of the dispute is being sought through some other channel?

(3) Is an objection founded on Article 15, paragraph 8, of the Covenant the only objection based on the merits of a dispute on which the competence of the Council to make an inquiry can be challenged?

(4) Are measures of coercion which are not meant to constitute acts of war consistent with the terms of Articles 12 to 15 of the Covenant when they are taken by one Member of the League against another Member without prior recourse to the procedure laid down in these articles?

(5) In what circumstances, and to what extent, is the responsibility of a state involved by the commission of a political crime in its territory?

The report on these questions by the Committee of Jurists may throw some light on the Covenant which will be useful in future difficulties. But it is to be regretted that if any attention is paid to a challenge which on legal grounds is almost baseless, the opinion of the Court as the most authoritative international body is not to be secured.

The Council did not stop here. It pronounced upon its own competence to this extent, that any dispute between

Members of the League likely to lead to a rupture is within the sphere of action of the League, and if such dispute can not be settled by diplomacy, arbitration or judicial settlement, it is the duty of the Council to deal with it in accordance with the terms of Article 15 of the Covenant. Though this definite pronouncement may not allay the fears aroused by Italy, it is an advance which may serve good purpose in the future.

We may now hope that the Corfu incident is closed. The settlement reached has dealt chiefly with the indemnification exacted of Greece for the killing of the Italian officers on Greek territory. Little has been said, perhaps little will be said, about any indemnity due to Greece for the lives lost and the destruction caused by the bombardment of Corfu. The Italian undertaking to indemnify the families of the victims has not lately been mentioned. The two questions are distinct, but they can hardly be disassociated. The indemnity awarded to Italy seems exorbitant to the Greeks, and they may still make some attempt to counterclaim on behalf of the Corfu victims. But it seems improbable that the incident will be reopened, and it is to be hoped that the crisis has been passed.

Conclusions to be Drawn

What conclusions are to be drawn from this history, as regards the League of Nations? First, it seems quite clear that the conference method of handling international problems has been demonstrated to be sound and that the value of permanent machinery for this purpose has been amply attested. What might not this method and this machinery have saved the world if they had been at hand in 1914! When Serbia tried in vain to place her case before a tribunal of the old Hague Court of Arbitration, there

was no machinery for conciliation at hand. When Sir Edward Grey tried in vain to get a conference of the Powers assembled, there was no automatic method of bringing them together. In 1923, the situation has vastly improved. Greece used the machinery maintained by fifty-four nations. Through it she sought a conference of the Powers and got it on the very day of her appeal. The machinery was there and it operated immediately. Whereas Sir Edward Grey sought in vain to get the ear of the German Chancellor over the wire, M. Politis had merely to address a note to the Secretary-General of the League of Nations to get the ear of M. Salandra, with representatives of Great Britain, Belgium, Brazil, China, France, Japan, Spain, Sweden and Uruguay present at the Conference.

Once invoked, the League method worked. The opinion of the world was focused on Geneva. The fact of the League had mobilized it. The action of the League gave it articulation and power. The message was clear and unmistakable that the world wanted peace. It wanted Greece to make suitable reparation, the nature and amount of which were not difficult to determine. It wanted Italy to leave Corfu. But most of all it wanted Peace. The Italians in Geneva understood this message, and I believe it got home to M. Mussolini. M. Salandra did not dispatch a colleague to Rome from Geneva for nothing. We can not know what course the Italian Government would have followed if there had been no League. It seems pretty clear that the world's opinion as expressed at Geneva was an important factor in determining the course which Italy did in fact adopt.

But the League's usefulness did not stop with voicing the world's desire. The Council succeeded in working out a series of proposals which were accepted almost *in*

toto by the three parties to the dispute—by Greece, by Italy and by the Conference of Ambassadors. These proposals were made the basis of the final settlement which has met the just demands of Italy, which has restored Corfu to Greece, and which has removed the menace of war. It was the work of the Council that helped the Will to Peace to prevail.

It is the Greek representative himself who has furnished the best guide to an appreciation of the work of the Council of the League with reference to this dispute. Speaking on behalf of his Government, M. Politis made the following statement to the Council of the League on September 17, 1923:

> I desire to express on behalf of the Greek Government my deep gratitude to the Council for the manner in which it has executed the very difficult task imposed upon it by the Covenant, and which it was bound to accept when asked to do so by the Greek Government. I feel that the Council has acted in strict accordance with Article XV of the Covenant, and that it has carried out the main provisions contained in paragraph 3, according to which, when a dispute is submitted to it, it shall endeavor to effect a settlement. It is absolutely free to choose means which appear to it best calculated to achieve the desired result. I appreciate the fact that the Council has done everything in its power to reach the satisfactory settlement which we record to-day.

Three things, then, are clear. (1) The method and the machinery which we call the League of Nations worked. (2) The opinion of the world was mobilized against a war; it was made articulate, it was given the force of a judgment which even a Fascisti Premier did not dare to brook. (3) Through the League a practical basis of settlement was devised, which largely satisfied the demands of both Italy and Greece, which protects the authority of the Conference of Ambassadors, and which kept the Peace.

OFFICIAL CORRESPONDENCE RELATING TO THE OCCUPATION OF CORFU

I. Demands of Italy

From the Royal Italian Legation to the Greek Ministry for Foreign Affairs

[2323.]

NOTE VERBALE

The Royal Italian Delegation considers it desirable to confirm by the present Note the verbal communication made yesterday morning by M. Montagna to His Excellency, the Greek Minister for Foreign Affairs.

As M. Montagna was careful to inform M. Alexandris beforehand, his visit could not in any case be interpreted as evidence or represented to be a sign of any change in the relations between the Royal Legation and the Hellenic Government. M. Montagna, in view of the extreme gravity of the situation resulting from the facts of the case, considered it advisable to disregard for the moment the considerations of form, even if such considerations might be regarded as having a political character.

The Royal Legation desires briefly to summarise the statement made on that occasion by M. Montagna on the basis of information received from authorised and competent sources regarding the abominable and brutal massacre, of which all the Members of the Italian Delegation to the International Commission for the Delimitation of the Albanian Frontier were victims.

General Tellini, the head of the Delegation and the President of the above-mentioned Commission, left Janina early in the morning of the 27th inst., in order to proceed to the place where the frontier was being traced, and to terminate the work there, which was to be finished in a few days. He entered a motor car which contained Major Corti of the Medical Service, his Secretary, Lieutenant Bonaccini and the chauffeur, Farnetti, who were all Italians, and the interpreter, Kraveri, who was of Albanian nationality.

The car in question was preceded on the road by the car containing the Albanian Delegation, and was followed at a certain distance by the car containing the Greek Delegation. At 9 o'clock, when General Tellini's car was about 50 kilometres away from Janina on the road leading to

Santi Quaranta, at a point well within Greek territory and not far from Greek military posts, it had slowed down on account of an obstacle which had been placed across the road. At that moment a band of Greek Irregulars fired a volley at the Italian Delegation; the five travellers were killed on the spot. Their bodies, which were riddled with shots, especially about the head, were not searched by the assassins.

The Royal Legation demands, without suggesting that the extremely grave responsibility of Greece in respect of this crime, which was undoubtedly committed for political motives, would in any way be lessened thereby, that all the persons who are guilty should immediately be arrested and subjected to instant and exemplary punishment—every care being, of course, taken to make sure of the identity of the assassins.

This first act of justice is indispensable, in view of the profound horror caused in Italy and abroad by the news that Italian officers, who were members of an International Commission, and who were engaged in carrying out in a spirit of fraternity and disinterestedness, a noble and pacific task which the Powers had united in entrusting to them, had been victims of so odious and revolting an attack.

Both General Tellini and his unfortunate collaborators had executed their task in such a spirit of good-will and justice that they had undoubtedly won the general esteem and sympathy of the foreign populations and authorities with whom they had come into contact. In one quarter alone—and the evidence on this point is quite definite—this attitude of respectful approbation was always lacking and there alone open or ill-concealed manifestations of opposition and hostility, and even incitement to hatred were observed. The Royal Legation does not consider it necessary for the moment to insist on this point. The Greek Government can not help being aware of the circumstances referred to.

Finally, the Royal Legation desires, on behalf of its Government, to protest in the most energetic manner to the Hellenic Government, as has already been done by M. Montagna, against this frightful and unparalleled crime, which has been committed well within the boundaries of Greece and almost under the eyes of the Greek authorities.

At the same time, the Royal Legation declares at this early stage, in accordance with the instructions of its Government, that it reserves its full and absolute rights in respect of all the reparations which are due to Italy, and which the latter will require in consequence of the grave responsibility of the Greek Government in this deplorable matter.

ATHENS, August 29th, 1923.

II. Further Demands of Italy

From the Italian Legation at Athens to the Ministry for Foreign Affairs

[2330.]

NOTE VERBALE

In continuation of its Verbal Note No. 2323 of today's date, and in accordance with the instructions which it has received, the Royal Italian Legation has the honour, on behalf of the Government of His Majesty, to request the Hellenic Government to make the reparations enumerated and specified below.

They constitute the minimum demands compatible with the extreme gravity of the offence committed against Italy, for which Greece is responsible:

(1) The Hellenic Government shall tender an apology in the fullest and most official manner to the Italian Government. This apology shall be presented to the Royal Italian Minister at Athens by the Highest Greek Military Authority.

(2) The Hellenic Government shall celebrate in honour of the victims of the massacre, a solemn funeral service in the Catholic Cathedral at Athens, which must be attended by all the Members of the Government.

(3) The Italian flag shall be saluted on the day on which the above-mentioned ceremony takes place, and in the manner described in detail hereafter. An Italian naval division will arrive at Phalerum at 8 o'clock in the morning. As soon as the division in question has anchored, several Greek battleships—with the exception, however, of all light torpedo boats which shall remain at anchor within the roadsteads of Salamis or the harbour of the Piræus—moored at the point where, as has been mentioned, the Italian division will cast anchor, shall salute the Italian flag flying at the masthead of all the aforementioned Greek vessels, by a salvo of 21 guns.

During the funeral ceremony mentioned in paragraph 2, both the Greek and Italian vessels shall lower their flags to half-mast. On the evening of the same day before sunset, the Italian naval division will leave its moorings at Phalerum and at the moment of departure will return the salute by the customary salvo.

(4) The Greek authorities shall carry out a very strict enquiry at the scene of the massacre, with the assistance of His Majesty's Military Attaché, Colonel Perrone di San Martino. The Hellenic Government shall be fully responsible for the personal safety of Colonel Perrone and shall facilitate the task entrusted to him in every way.

(5) The enquiry shall be carried out within 5 days after the receipt of the present demand.

(6) All persons found guilty shall be sentenced to death.

The Hellenic Government shall pay to the Italian Government as a penalty an indemnity of 50 (fifty) million Italian lire. This sum shall be paid within 5 days after receipt of the present Note.

(7) Solemn military honours shall be paid to the mortal remains of the victims at Prevesa, on the occasion of their transfer to an Italian vessel.

The Royal Legation awaits, on behalf of its Government, the reply of the Greek Government to the present Note, within a maximum period of 24 hours.

Athens, August 29th, 1923.

III. Reply of Greece

The Greek Ministry of Foreign Affairs to the Italian Legation in Athens

[8108.]

Note Verbale

The Royal Minister for Foreign Affairs has the honour to acknowledge the receipt of the Verbal Note of the Royal Italian Legation dated August 29th, 1923.

The Greek Government desires to assure the Italian Government once more of its deep regret at the abominable assassination of the members of the Italian Mission on Greek territory.

This regret is shared by the entire Greek nation which from the very first condemned the crime with the profoundest indignation.

As has been already stated, the assassination of the members of the Italian Mission took place near the 54th kilometre stone on the carriage road from Janina to Argyrokastro, at a point less than one hour's journey from the Albanian frontier, and at a curve in the road on the edge of a dense forest.

Immediately on receipt of the news of the crime, the authorities ordered various military detachments to take up the pursuit of the assassins and the Governor-General of Epirus, together with the Public Prosecutor and the Examining Magistrate, proceeded to the place. In addition, the Chief of Police and certain senior military judicious officers have left Athens on board a warship for the purpose of supervising efforts of the prosecution and of instituting the most active possible search for the murderers. The enquiry began yesterday, and is being prosecuted without interruption, but it has been unable as yet to determine the nationality of the perpetrators or to ascertain the motives of the crime.

The Hellenic Government can only protest against the allegation that it is guilty of an offence against Italy.

It could not in fact be seriously alleged that such an offence could have been committed by the Hellenic Government, either intentionally or through negligence, in view of the fact that the Hellenic Government had no reason for feeling any animosity against the Italian Mission, which was performing a peaceful and honourable task on the frontier of the country. If the Royal Government had any complaints to make in connection with the demarcation of the frontier, such complaints could not concern General Tellini, who was merely carrying out the demarcation of the line already fixed at Florence.

It is true that certain disputes, due to an erroneous interpretation, had arisen within the Mission of which he was the President, but they only concerned secondary points in connection with which the Royal Government had communicated with the Conference of Ambassadors, at the same time complying, in a conciliatory spirit, with the General's decisions. In the opinion of the Hellenic Government the General did not on any occasion fail in his duty as an honourable soldier and an honest arbitrator.

On the other hand, the Hellenic Government could not possibly be accused of negligence in connection with the safety of the Mission, seeing that it had placed a special detachment of soldiers at the disposal of the Mission for this purpose. Emphasis must also be laid on the fact that the local authorities had organised several patrols on account of the presence near the frontier of bands of Albanian brigands, to which the Royal Minister had previously drawn the attention of the Albanian Government by two Verbal Notes. Moreover, no doubts as to the personal safety of General Tellini or of any other member of the Italian Mission were ever expressed, and no representations were made to the Hellenic Government in this connection.

The Greek Government therefore considers the statement of the Italian Government contained in its Verbal Note, to the effect that the Hellenic Government is guilty of a serious offence against Italy, to be entirely unfounded, and it is unable to accept the demands formulated under Nos. 4, 5 and 6 in the Verbal Note which outrage the honour and violate the sovereignty of the State.

Nevertheless, the Hellenic Government, taking into consideration that the abominable crime was committed on Greek territory against subjects of a great friendly State entrusted with an international mission, declares its willingness to accept:

(1) That the Government shall express its regret to the Italian Government in the most complete and official form. For this purpose the general officer commanding at Athens shall call upon His Excellency the Italian Minister.

(2) The Hellenic Government shall have a service held in the Catholic Church at Athens in honour of the victims, which all the members of the Government shall attend.

(3) On the same day honours shall be paid to the Italian flag in the following way:

A detachment of the garrison of Athens shall proceed to the Italian Legation and shall salute the flag, paying all customary honours.

(4) Solemn military honours shall be paid to the victims at Prevesa when the bodies are transferred to the Italian vessel.

In addition, the Hellenic Government declares its complete willingness to grant, as a measure of justice, an equitable indemnity to the families of the victims, and it would be pleased to accept any assistance in the work of enquiry which Colonel Perrone might be able to lend by supplying any information likely to facilitate the discovery of the assassins.

The Hellenic Government ventures to hope that the Italian Government will recognise the justice of the point of view set out above as well as its sincere desire to give satisfaction to the Italian Government in the most equitable way possible. If, however, contrary to this anticipation, the Italian Government were unwilling to recognise the satisfaction given as adequate, the Hellenic Government has the honour to inform the Royal Italian Legation that, in accordance with the provisions of the Covenant of the League of Nations, it will appeal to the League and undertake to accept its decisions.

ATHENS, August 30th, 1923.

IV. Appeal by the Greek Government to the Council of the League of Nations under Articles 12 and 15 of the Covenant

C.577.M.226. 1923.

[Translation]

PERMANENT GREEK SECRETARIAT
ACCREDITED TO THE
LEAGUE OF NATIONS

GENEVA, September 1st, 1923.

Sir,

A deplorable event has just taken place on Greek territory. It has caused consternation throughout the whole country and raised a feeling of violent and unanimous indignation amongst the Greek people.—The Italian Delegation on the Commission set up by the Conference of Ambassadors for the Delimitation of the southern frontier of Albania has been assassinated by unknown persons a few kilometres from the Greco-Albanian frontier.

The moment it learned of this regrettable event the Greek Government took energetic steps to discover the author of the crime, and spontaneously expressed to the Italian Government the profound regrets of the whole country.

However, before any kind of proof was forthcoming as to the nationality of the aggressors or the motives and circumstances of the crime, the Italian Government, through its Legation at Athens, addressed to the Greek Government a note, a summary of which you will find attached, in which it threw the moral responsibility and the implicit material responsibility for the crime upon the Greek Government, and demanded certain measures of satisfaction and reparation which are incompatible in several respects with the sovereignty of the Hellenic State and the honour of the nation.

The Greek Government replied by a note, summarised in Annex —[1] attached, in which it refutes the accusation contained in the Italian note and states that it is quite unable to meet the demands which the note contains. Animated, however, by a keen desire to close, as soon as possible, and in the general interest, an incident which might seriously affect the good relations between the two countries, the Greek Govern-

[1]See Document III.

ment has offered to give to Italy the satisfaction and the reparations which are enumerated in the Greek reply.

By this step, which will be recognised to be extremely conciliatory, the Greek Government is making the maximum sacrifices which are compatible with the honour and the sovereignty of Greece. Accordingly, in forwarding its reply to the Italian Legation at Athens, the Greek Government informed the latter that it had decided to place the dispute before the Council of the League of Nations with a view to arriving at a friendly and equitable settlement.

In acquainting you with these facts, I have the honour, by the order of the Greek Government, to beg you to bring this question before the Council at the earliest possible moment, by virtue of Articles 12 and 15 of the Covenant of the League of Nations.

(Signed) J. G. Politis,

The Director of the Permanent Greek Secretariat.

V. Bombardment of Corfu—Letter from M. Salandra

C.584.1923.

SOCIETÀ DELLE NAZIONI,
IL DELEGATO ITALIANO.
[Translation]

Geneva, September 4th 1923.

Sir,

With reference to my communication of yesterday's date regarding the disembarkation at Corfu, I have the honour to furnish the following complementary information, which has been obtained from official sources:—

1. The principal fortress of the Island was subjected to a very short bombardment after the expiration of the time-limit which had been granted, after three blank shots had been fired and after the Greek Commandant had declared that he would oppose the disembarkation by force.

2. The firing was directed exclusively against the fortress and the semaphore situated above the fortress.

3. Neither the Governor of Corfu nor the Commandant of the fortress nor any other representative of the Greek Government took steps to

inform the Italian flag-bearer that the citadel was not only occupied by Greek soldiers but was harbouring many refugees.

4. After receiving the summons, the Military Commandant took no steps to place the civil refugees in safety in the available subterranean chambers of the fortress.

5. When the first volleys were fired by the artillery, the Commandant of the Garrison left his post in civilian clothes.

In addition to the above information, it should be mentioned that:—

(1) an investigation was made within the fortress in order to identify the place where the projectile burst which was the cause of the death of various persons;

(2) the projectile in question burst in the corner of an internal window of the fortress, where the office of the Commandant was and where soldiers were habitually quartered;

(3) refugees from Armenia and Anatolia were also housed in the same quarters;

(4) the Commandant, although declaring that he would oppose the disembarkation by force, did not cause the refugees to take shelter in the subterranean chambers of the fortress and gave them no advice before his departure.

The commanding officer of the Italian Fleet, after visiting the wounded in the Greek Hospital and in the American Orphanage, made arrangements for giving them assistance.

As soon as particulars regarding the families of the wounded and of the killed are known, assistance will also be granted to them.

I have the honour to be, Sir,

(Signed) SALANDRA.

THE SECRETARY-GENERAL
OF THE LEAGUE OF NATIONS.

VI. Bombardment of Corfu—Letter from M. Politis

C.598.1923.VII.

GENEVA, September 8, 1923.

NOTE BY THE SECRETARY-GENERAL

The following letter from M. Politis to the Secretary-General is circulated for the information of the Council:

Sir,

With reference to the communications which the Council have received from His Excellency M. Salandra, regarding the bombardment of Corfu, I have the honour to transmit to you herewith a summary of the report on this incident which was submitted by the Prefect of the Island to the Greek Government and has now been forwarded to me by telegram.

At 3 P.M. on August 31st, the Prefect was visited by the Officer Commanding the Italian Naval Squadron, accompanied by his Orderly Officer. The Officer Commanding informed the Prefect in writing that he intended to occupy the island, and drew his attention to the consequences which would follow any attempt at opposition on the part of the inhabitants or of the military forces. The Italian Consul General, who had arrived meanwhile at the Prefecture, translated the communication from the Naval Authorities.

The Prefect, anxious to consult his Government as to what attitude he should take up, asked for a delay which was refused. He was obliged simply to enter a protest and to state that, as the town was not in a position to defend itself, it would only oppose the occupation by passive resistance. He added that there were between six and seven thousand refugees in the old fortress, that the small garrison of Corfu was stationed in the barracks, where there was also an orphanage containing 350 children under English direction and a hospital which contained patients, and that there were also a few refugees in the new fortress. The Italian Officers left the Prefect at 4.15 P.M. and informed him that at 5 P.M. three blank shots would be fired and would be immediately followed by a bombardment unless the white flag was shown on the old fortress. No white flag having been shown, the bombardment actually began at 5 o'clock. Between 30 and 35 shells were fired, causing a number of cas-

ualties among the refugees. The fortress batteries did not reply to the bombardment and the occupying force was landed without incident. The bombardment did not cease until the white flag was flown. The Prefect was arrested, held prisoner for two days, and finally expelled.

(Signed) POLITIS.

VII. Proposals made by the Council of the League of Nations, September 6

(These proposals are printed in the main text at p. 187.)

VIII. Decision of the Conference of Ambassadors, September 7

(This decision is printed in the main text, p. 188.)

IX. Supplementary Decision of the Conference of Ambassadors, September 13

(This decision is printed in the main text, p. 190.)

X. Final Decision of the Conference of Ambassadors, September 27

Telegram from the Conference of Ambassadors to the Council of the League

Sir ERIC DRUMMOND,
Secretary-General of the League of Nations,
at Geneva.

I have the honour to request you to transmit to the Council of the League of Nations the following decision taken by the Conference of Ambassadors on September 26th and notified on that day to the Hellenic Government:

The Conference of Ambassadors, taking note of the execution by Greece of the reparations demanded in the Note of September 8th, under headings 1, 2, 3 and 4, on the conditions set forth in the subsequent Note of the Conference of September 13th; having taken cognisance of the report which the Commission of Control, despatched by the Conference to

Janina, addressed to the latter on September 22nd; having, in accordance with paragraph 5 of its note of the 13th instant, examined this report from the point of view of the execution of paragraph 5 of the Note of September 8th; observing that at the time when the report was despatched the guilty parties had not yet been discovered; observing also that several omissions have been noted on the part of the Greek authorities as regards the conduct of the enquiry; and observing that, as regards the discovery of the guilty parties, several negligencies have been recorded; considering that the 5th condition contained in the Note of September 8th, can, in consequence, not be regarded as fulfilled; decides that the Hellenic Government shall pay to the Italian Government by way of penalty on this account a sum of 50 million Italian lire, the Conference and the Italian Government renouncing their right to have recourse to the Court of International Justice at the Hague as provided for in paragraph 7 of the Note of September 8th, as well as their claim to any other penalty, and regarding the question as settled so far as they are concerned, subject to any special application of Italy to the Court of International Justice in respect of the question of the cost of occupation; decides that the payment of the sum of 50 million Italian lire mentioned above shall be effected by remitting to the Italian Government the 50 million Italian lire deposited on September 10th, 1923, in the Swiss National Bank, and that the Court of Justice shall, in consequence, be requested to order the transfer of the said sum by the Swiss National Bank to the Bank of Italy at Rome for the credit of the Italian Government. The Conference notes on this occasion that the Italian Government declares that it will execute on September 27th the decision previously taken by it to evacuate Corfu on that date.

(Signed) POINCARÉ.

XI. Questions submitted by the Council of the League to a Committee of Jurists

(These questions are printed in the main text, p. 195.)

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1. **What We Are Fighting For.**
   Milestones of Half a Century: What Presidents and Congress have done to bring about a League of Nations.
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   European Background of the Monroe Doctrine.
   American Statements of Policy.
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Held at Brussels, September 24 to October 8, 1920, under the auspices of the League of Nations.

6. **Work of the Council.**
Report of the Secretary-General to the First Assembly of the League of Nations.

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World Peace Foundation

Vol. VI 1923 No. 4

REPARATION

Part IV

PROPOSALS FOR SETTLEMENT

Published Bimonthly by the

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*FOUNDED IN 1910 BY EDWIN GINN

The corporation is constituted for the purpose of educating the people of all nations to a full knowledge of the waste and destructiveness of war, its evil effects on present social conditions and on the well-being of future generations, and to promote international justice and the brotherhood of man; and, generally, by every practical means to promote peace and good will among all mankind.—*By-laws of the Corporation.*

It is to this patient and thorough work of education, through the school, the college, the church, the press, the pamphlet and the book, that the World Peace Foundation addresses itself.—Edwin Ginn.

The idea of force can not at once be eradicated. It is useless to believe that the nations can be persuaded to disband their present armies and dismantle their present navies, trusting in each other or in the Hague Tribunal to settle any possible differences between them, unless, first, some substitute for the existing forces is provided and demonstrated by experience to be adequate to protect the rights, dignity and territory of the respective nations. My own belief is that the idea which underlies the movement for the Hague Court can be developed so that the nations can be persuaded each to contribute a small percentage of their military forces at sea and on land to form an *International Guard or Police Force.*—Edwin Ginn.

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REPARATION

INTRODUCTION

The present publication continues the three pamphlets published at the end of 1922 under the general title "Reparation".[1] The presentation of the facts there published requires no general revision, though in some matters definite decisions have subsequently been taken which are recalled in the pages immediately following. This Part IV continues the story from the expiration of the 1922 partial moratorium up to the reports of the Committees of Experts appointed by the Reparation Commission.

The last year and a half of reparation history has brought the problem nearer settlement. The period has been dominated more than the former period by inevitable economic considerations and has seen the disappearance of some of the political desiderata, which gave direction to the question in its initial stages.

The political consideration strictly connected with reparation which has had its most notable test in the period under review relates to the interpretation, or application, of Par. 18 of Annex II of Part VIII of the treaty of Versailles. The French interpreted this as justifying their military occupation of the Ruhr. The British have stated that in their view "the Franco-Belgian action in occupying the Ruhr, quite apart from the question of expediency, was not a sanction authorized by the treaty itself." The British Government offered to leave the matter of interpretation to the Permanent Court of International Justice for legal decision. To this offer the French Government replied: "We have no need whatever to bring before any jurisdiction a divergency of opinion as to the interpretation of Par. 18." The occupation of the Ruhr remains a *fait accompli*, and it is probable that compromise of point of view will prevent its becoming a serious question.

The policy of "separatism", which has had a continuous history since 1919,[2] has been exploited, and has failed. It may be regarded as out of consideration.

[1] *League of Nations*, V. Nos. 1–3.

[2] See "Post-war Political Alignments" (Vol. VI), p. 104.

There remains one political contention which is likely to affect reparation. As stated in the French memorandum of January 2, 1923, it is the contention "that every failure to execute the treaty of Versailles has already had and will in the future have as its result the postponement of the dates of evacuation of the occupied territories." Art. 440 of the treaty of Versailles says that "for the determination of all the periods of time provided for in the present treaty the date of the first procés-verbal of the deposit of ratifications, that is, January 10, 1920, will be the date of the coming into force of the treaty." Art. 429 provides that "if the conditions of the present treaty are faithfully carried out by Germany, . . . at the expiration of five years there will be evacuated the bridgehead of Cologne." That district is occupied by the British in the main. The sector lies largely to the west of the Ruhr. If the British should withdraw on January 10, 1925, in strict accord with the stipulation of Art. 440 of the treaty, the French thesis would be definitely denied. The question has numerous ramifications and will certainly be given much consideration during the year 1924. Once it is resolved—involving as it does the Ruhr occupation also—reparation may be regarded as a strictly economic problem.

The past eighteen months of reparation history has been characterized by constant insistence upon a reduction of the German obligations, in connection with which there has been discussion of the interallied debts. The Government of the United States has constantly refused, owing to the disability imposed by the Act of Congress of February 9, 1922,[1] to be a party to, or to have any discussion upon, any proposal looking to the clearance of international debits and credits in any way. As the American credits are a considerable item in the international debt balance

[1]The Act provides: "Sec. 3. That this act shall not be construed to authorize the exchange of bonds or other obligations of any foreign government for those of any other foreign government, or cancellation of any part of such indebtedness except through payment thereof."

Similarly by Sec. 2 the World War Foreign Debt Commission is unable "to extend the time of maturity of any such bonds or other obligations due the United States of America by any foreign government beyond June 15, 1947, or to fix the interest at less than 4¼ per centum per annum."

Those provisions having proved impracticable, special legislation was required to provide for the payment of the British debt to the United States and similar legislation is requisite in the case of Finland with which an agreement has been effected.

of each of the countries chiefly concerned, the latter have not been able to simplify their accounts by exchanges of credits among themselves, and still less have they been able to consent to any form of scaling down.

The prevailing neutral opinion in the period has been that a practical figure at which the German obligation for reparation might be set would be about 50,000,000,000 gold marks. None of the discussions has made it clear whether setting the figure at such a sum was in contemplation of abolishing the joint responsibility of the debtor states for all reparation which technically is in force.

Credits Not Yet Made

The Schedule of Payments of May 5, 1921, fixed the total reparation due from Germany and her allies at 132,000,000,000 gold marks. This amount was divided into three parts, represented by bonds of series "A", "B", and "C". Series "A" and "B" total 50,000,000,000 gold marks and Series "C" 82,000,000,000. It was provided by a financial agreement between the allied powers signed at Paris, March 11, 1922, that Austrian and Hungarian reparation payments should be applied to liquidation of bonds of Series "C", and that the Bulgarian debt should also be subtracted therefrom. The Bulgarian liability has been fixed at 2,250,000,000 gold francs. A large amount of Austrian and Hungarian property creditable to reparation is in the hands of the creditors and is consequently deductible from the total debt. Actual payments made in cash and kind have been made, but no reports are available. In the case of Austria, the Reparation Commission by resolutions of July 21 and August 4, 1922, waived its lien on Austrian state properties in order to facilitate the financial rehabilitation of the country by the League of Nations. The commission took similar action in respect to Hungary on October 7, 1923, calling for not more than 10,000,000 gold crowns annually for 20 years, however. Since these actions put Austrian and Hungarian reparation in abeyance, the amounts for which those countries are eventually liable should, according to customary accountancy rules, be definitely fixed and removed from the active total of liability for which Germany is primarily re-

sponsible.[1] The figures are not yet available, so that the deduction can not be indicated at the present time.

The Reparation Commission has, however, allocated the secured and unsecured debts of the former Austria-Hungary among the succession states. The railroad system was the principal pledge for the secured debts. In general, the debt was assumed in proportion to the length of the lines in the territory of the succession states. As to the unsecured state debts, the division was made by bonds allocated in the following proportions:

AUSTRIA

Republic of Austria	36.827%
Italy	4.087%
Poland	13.733%
Rumania	1.610%
Serb-Croat-Slovene State	2.043%
Czechoslovakia	41.700%

HUNGARY

Present Hungary	45.733%
Rumania	21.802%
Serb-Croat-Slovene State	14.116%
Czechoslovakia	16.020%
Austria	1.581%
Fiume	0.748%

Turning to Germany, the outstanding credit which has not been placed on the books is that of German property abroad which is subject to liquidation, either by reason of territorial cessions ousting German nationals or under the terms of Art. 260 of the treaty of Versailles. This property is in the hands of creditor states and has not yet been reported to the Reparation Commission for crediting. German figures place its value at 11,740,000,000 gold marks. The creditor states are loth to report it in any way that will reduce their current receipts from Germany in either cash or kind. The credits eventually admitted will,

[1]As respects Turkey, British claimants in respect of damage incurred prior to January 10, 1920, and included within the categories of damages of the treaty of Versailles are payable from a £5,000,000 fund against which the Royal Commission on Compensation for Suffering and Damage by Enemy Action is assessing claim values. Claimants on account of damage suffered subsequently to January 10, 1920, must rely on remedies flowing from the treaty of Lausanne. (London *Times*, November 14, 1923, p. 7.)

therefore, be charged against the passive "C" rather than the active "A" and "B" bonds. As the property in question changed hands as on the date of the armistice the amount involved will reduce the German debt.

Such are the salient elements applicable to reduction of the total obligation on economic or bookkeeping grounds.

Shrinkage of Claims

In considering the possibility of reducing the obligation the question arises whether the claims on which the total obligation was originally fixed, and which were admittedly estimates of more or less evidential character, should be revised in the light of subsequent experience.

One of the uncertainties existing in the early period was due to the lack of accurate information respecting damage done. The French claim naturally has attracted most attention. The total of the French claims as of February 12, 1921, was given as 218,441,596,120 paper francs. Omitting interest and pension claims of various types, the schedule then turned into the Reparation Commission showed details as follows:

Damages to property:	*Paper francs*
Industrial	38,882,521,479
Buildings	36,892,500,000
Personal	25,119,500,000
Unimproved	21,671,546,225
Public works	2,583,299,425
Property of the state	1,958,217,193
Other damages	2,359,865,000
Exactions to the detriment of the civil population	1,267,615,939
	130,490,735,201

The claims thus made were in accordance with the law of April 17, 1919, by which cantonal commissions were intrusted with the fixing of amounts due to the *sinistrés*, or persons suffering damage. The project of law No. 6485 fixing the special budget of recoverable expenses for 1924 states that 2,861,000 claims representing 62,000,000,000 paper francs had been examined and determined on September 1, 1923, leaving 142,000 claims amounting to 22,000,000,000 paper francs to be determined.

This work had been done by 654 cantonal commissions, of which 314 had been dissolved previously to 1923 and 312 during that year. The actual claims filed by the *sinistrés* were considerably less in value than the government estimate of 1921, and were as follows:

Categories	*Claims*	*Gold value*	*Paper value*
1. Requisitions	594,642	6,192,000,000	14,407,500,000
2. Movables	1,358,513	10,999,800,000	26,086,300,000
3. Immovables	1,054,283	20,393,200,000	79,342,600,000
Total	3,007,438	37,585,200,000	119,836,500,000

On 2,877,914 claims of a total claim value of 90,195,800,000 paper francs, 62,302,300,000 paper francs were granted and it was estimated that the total number of claims will amount to 82,718,500,000 paper francs.[1]

It has been charged in the Chamber of Deputies that a considerable part of this amount represents fraudulent claims. The fact of fraud is admitted and the amount has been estimated at 3,500,000,000 paper francs by the minister of liberated regions and as high as 20,000,000,000 paper francs by his opponents. When M. Reibel assumed charge at the ministry the total valuation of war damages was 100,000,000,000 paper francs. He had reduced that sum to 90,000,000,000 on January 1, 1923, and to 82,000,000,000 by January, 1924. There had been 500 prosecutions and 200 convictions for fraud. The Chamber has provided for the revision of all claims above 500,000 paper francs. Two-thirds of the first 115 claims examined were found to be excessive, but fraud was indicated only in five or six.

While no formal change has taken place in the categories of damages, Annex I of Part VIII of the treaty of Versailles, it is now clear that categories 5 to 7, military pensions and civilian allowances, are not likely to be pushed forward. The British Government regards such claims as in abeyance. The American Government by an exchange of notes of August 10, 1922, effected at the signing of the agreement establishing the German-American Mixed Commission on Claims to be paid by Germany, signed off any rights it might have to payments on those accounts, and thereby registered its influence against the prosecution of

[1] *Journal des Economistes*, Jan. 15, 1924, p. 14.

such claims in general. The pertinent part of this exchange between the German Chancellor and the American Ambassador at Berlin begins with this quotation from the Chancellor's letter of August 10, 1922:

From the numerous conferences which have taken place with your excellency, the German Government believes itself justified in assuming that it is not the intention of the American Government to insist in the proceedings of the commission upon all the claims contemplated in the Versailles treaty without exception; that it in particular does not intend to raise claims such as those included in paragraphs 5 to 7 of annex 1 of article 244 of the Versailles treaty (claims for reimbursement of military pensions paid by the American Government and of allowances paid to American prisoners of war or their families and to the families of persons mobilized) or indeed claims going beyond the treaty of August 25, 1921.

The German Government would be grateful if your excellency would confirm the correctness of this assumption.

The American Ambassador replied on the same day as follows:

In accordance with the instructions that I have received from my Government, I am authorized by the President to state that he has no intention of pressing against Germany or of presenting to the commission established under the claims agreement any claims . . . falling within paragraphs 5 to 7, inclusive, of the annex following article 244 of the treaty of Versailles.[1]

Presents Plans of Settlement

The present study is highly selective. The previous publications have described the general machinery of reparation, which has not changed. The subsequent efforts to work out a final scheme of payment are consequently the proper thing on which to throw some light. This publication, therefore, aims to set forth the official documents which represent serious consideration of the possible terms of settlement. It will doubtless be found that the eventual agreement will be a combination of elements from the allied and German plans printed in the first three chapters of this publication.

The Reparation Commission, which by the treaty shall "in

[1] Myers, "Treaties, Conventions, International Acts, Protocols, and Agreements between the United States of America and other Powers, 1910–1923," Vol. III, p. 2603–04. (Sen. Doc. 348, 67th Cong., 4th sess.)

general have wide latitude as to its control and handling of the whole reparation problem," has had very little to do with the matter in the period from November, 1922, to March, 1924. Beginning with decisions as to German defaults on timber and coal in December, 1922, the problem has in effect been remitted to the creditor states. This has been perhaps natural and inevitable, but as a constantly recurring situation it emphasizes a condition fundamentally unsatisfactory. The treaty clearly contemplates that the Reparation Commission should be a responsible body, but it contradictorily provides that "no member of the commission shall be responsible, except to the Government appointing him." It consequently follows that in any matter of crucial importance, the members of the commission act solely as agents of their Governments and not in any other capacity. This condition accounts for the fact that so much of reparation history emanates from the foreign offices rather than the headquarters of the commission.

There was every evidence before the publication of the reports of the Committees of Experts that the political mood of the creditor states was such that the purely economic recommendations of the experts would be acceptable as a way of closing the door on past policy. There remains, however, a great deal of detail to be worked out, not only by the Reparation Commission, but by the Governments, before the reparation problem can be said to be proceeding with automatic regularity.

Throughout the period under review, the seizure and occupation of the Ruhr has been to the fore. The question of its legality has been definitely raised and the documents printed herein incidentally refer to the controversy on that subject. The German passive resistance in the Ruhr was a novel feature of the incident, and the attitude of the Interallied Rhineland High Commission was a matter of fundamental importance.

DISTRIBUTION OF RECEIPTS BY THE REPARATION COMMISSION TO JUNE 30, 1923

(expressed in thousands of gold marks)

States	Nature of Receipts			
	Cash	Deliveries in Kind	Ceded Property	Total Receipts
Great Britain	641,334	613,467	538	1,255,339
France	143,969	1,357,956	302,042	1,803,967
Italy	33,285	305,336	—	338,621
Belgium	1,081,268	648,223	635	1,730,126
Japan	390	8,978	59,000	68,368
Serbia	604	203,764	—	204,368
Greece	—	12,807	—	12,807
Poland	—	14,968	—	14,968
Rumania	4	31,721	—	31,725
Czechoslovakia	—	16,268	6,297	22,565
Portugal	—	11,928	—	11,928
Total	1,990,854	3,225,416	368,512	5,494,782

Suspense Accounts

		Together	5,494,782
(a) *Deliveries in kind:*			
Portion of value of ships	392,743		
Submarine cables	49,000		
Miscellaneous	91,751	533,494	
(b) *Ceded Property and Portion of German Public Debt:*			
Poland	1,775,848		
Danzig	309,546		
Portion of valuation of Saar Mines	100,000	2,185,394	2,718,888
Grand Total			8,213,670

I. PROPOSALS FOR SETTLEMENT

The account of reparation negotiations previously published in this series closed with a summary[1] of the London meetings of the British, French, Belgian and Italian premiers in August, 1922.[2] At that conference the policy which France subsequently pursued became evident and met with opposition. Germany, already granted a moratorium from the strict terms of the Schedule of Payments of May 5, 1921,[3] was having difficulties and was seeking a longer respite. At that period there was a general feeling among those qualified to have an economic opinion on the subject that the burden technically imposed on Germany must be lightened if that country were to acquire a reasonable capacity to pay by methods and means which the creditors could afford to accept.

In the autumn of 1922 Germany, hampered from the time of the armistice by prejudice against her motives, sought to refute the allegation of avoiding the reparation debt by calling together financial experts of world-wide reputation and securing from them a study of her condition. Their reports were transmitted to the Reparation Commission on November 14, 1922, with an application for a moratorium based upon a scheme founded upon the expert reports. As the moratorium then current would expire with the coming December, it was obvious that this move must receive attention.

The British, French, Belgian and Italian premiers met at London on December 9 and 10, 1922, and at Paris on January 2–4, 1923,[4] for this purpose.

The actual work of the meetings was, however, taken up with discussions of Italian, British and French proposals for settlement, which are exceedingly enlightening as to the

[1]The proceedings have not been made public. The British have sought to publish them and have stated in Parliament that French consent was not forthcoming. The French have said the Belgians objected, and the Belgian foreign minister states that as he was not a party to all the conferences, he was unable to consent to the integral publication of the proceedings.

[2]Vol. V, No. 2, p. 108.

[3]Vol. V, No. 3, p. 195.

[4]The Italian premier was represented at Paris by a delegate.

national points of view and which as a whole, along with the German proposals, present the possible lines of settlement. This group of documents is therefore set forth herewith.

The plans were discussed at great length, but without progress toward an agreement. The Italian plan was not brought into the argument, which was confined almost exclusively to British and French memoranda and criticisms of their respective proposals. In the end considerable frankness prevailed and the statements of Messrs. Bonar Law and Poincaré at the conclusion of the session of January 4 accurately reflected the British and French attitudes. At that time Mr. Bonar Law read a statement as follows:

His Majesty's Government, after giving the most earnest consideration to the French proposals, are definitely of opinion that these proposals, if carried into effect, will not only fail in attaining the desired results, but are likely to have a grave and even disastrous effect upon the economic situation in Europe, and, in these circumstances, they can not take part in, or accept responsibility for, them. His Majesty's Government at the same time desire to assure the Government of the Republic that while they regret extremely that there should be an irreconcilable difference of opinion on a subject so serious, the feeling of friendship on the part not only of the British Government, but, as they believe, of the British people, toward the Government and people of France remains unchanged.[1]

M. Poincaré thanked the British Government for the last statement, and then read the following statement on behalf of the French Government:

The Government of the Republic for their part have examined very attentively and carefully the British proposals, and the longer they have studied them, the more have they felt obliged to recognize that the proposals would involve, together with a considerable reduction of the debt owing to France, the overthrow of the treaty of Versailles, and that it is impossible for them to accept such a solution.

The Government of the Republic deeply regret their inability to agree with the British Government on those serious questions, but they thank the British Government for their friendly statements and can assure them that, in spite of this difference of opinion, the sentiments of the Government of the Republic and of the French nation toward England remain unchangingly cordial.

[1] "Interallied Conferences on Reparations and Interallied Debts," p. 194. (Miscellaneous No. 3, 1923. Cmd. 1812.)

1. German Application and Offer of November, 1922.

M. Sthamer to the Marquess Curzon of Kedleston.[1]

German Embassy, London,
November 14, 1922.

My Lord,

I have the honor to inform your Lordship, in conformity with the instructions of my Government, that a note in the following terms will be addressed to-day in the name of the German Government to the president of the Reparation Commission:

"Sir,

"Since the presentation of the German Government's note of the 8th instant, the second report of the international experts called together by the Government has come to hand and both reports are being communicated to the Reparation Commission for their information. The German Government adopt the contents of these reports in principle and submit, on the basis of the negotiations now concluded with the Reichsbank and as supplementing the proposals in their notes of the 4th and 8th instant, the following comprehensive plan for the raising and the stabilization of the exchange value of the mark:

"1. A definitive stabilization of the mark can only be effected when the reparations question is finally settled in accordance with the ability of Germany to pay. But in view of the recent disorganization of the mark this final settlement can no longer be awaited, and some provisional action is urgently necessary to raise and support the mark.

"2. Such provisional action can not, as previous experience has shown, be effected with German resources alone. In order to re-establish lost confidence in the mark the co-operation of foreign countries is required.

"3. The German Reichsbank has expressed itself as ready to set aside a sum of 500,000,000 gold marks in gold or bills for stabilization purposes.

"4. The inception of measures to support the mark requires the following conditions:

"(*a.*) Germany to be relieved for three or four years from all payments, either in money or kind, arising out of the treaty of Versailles.

"Deliveries in kind for the restoration of the devastated areas will continue as long as they can be made without an increase of the floating debt—*i.e.*, from current revenue or internal loans.

"(*b.*) Germany to receive for these stabilization measures a guaranteed credit of at least 500,000,000 gold marks from foreign banks, so that a total sum of at least 1 milliard gold marks is available for the measures to be taken.

[1] *Interallied Conferences*, p. 3.

"5. The above conditions have also been laid down by the Reichsbank for the setting aside of 500,000,000 gold marks from its gold reserve. The Reichsbank can not, however, in addition furnish a security or guaranty for the foreign bank credit. The securities required for the granters of the credit will be provided by the German Government, subject to the consent of the Reparation Commission.

"6. The sums provided by the foreign banks and by the Reichsbank will, the organization of the latter being utilized, be administered by an independent institution consisting of representatives of the foreign lending groups, the Reichsbank and the Federal Financial Administration.

"7. This body will take measures to improve the mark exchange. Its first task will be to endeavor to acquire in foreign markets (New York, London, Amsterdam, Zurich, &c.) the available supply of marks for the account of the German Government, which will at the same time lead to a decline in the exchange rate. They will also attempt to regulate the mark exchange by purchasing and selling bills of exchange both at home and abroad.

"8. So soon as the recovery of the mark has restored confidence in Germany, the German Government will issue an internal gold loan on suitable terms.

"The German Government are also prepared to float foreign loans if money is obtainable under suitable conditions.

"Even before the expiry of the period mentioned in No. 4 (*a*) half the proceeds of the internal loan and the whole of the proceeds of the external loans will be devoted to the payments in money and in kind arising out of the treaty of Versailles. The other half of the proceeds of the internal loan will be used for the requirements of Germany's own budget, and especially for the repayment of the stabilization credit.

"9. By means of the measures indicated above Germany will be placed in the position to establish an equipoise in her budget, to stop the increase of the floating debt, and to discontinue within an appreciable time the discounting of treasury bills by the Reichsbank. As soon as the budget is balanced loans will only be issued for remunerative purposes, and floating debt be incurred only for temporary financial accommodation. The causes of inflation will thus disappear.

"By means of internal reforms Germany will cut down her expenditure and increase her revenue. In this connection the following matters are in particular contemplated:

"The abolition of superfluous departments; the reduction of the number of employees and civil servants; the avoidance of unproductive expenditure; the restriction within the limits of the most urgent requirements of legislative measures involving fresh expenditure; the productive organiza-

tion of the state industrial enterprises with a view to make them pay their way.

"10. Germany to adopt all measures necessary and appropriate to stimulate the productivity of labor and thus arrive at an equipoise of the trade balance.

"With this end in view, a modification of the hours of labor will be initiated, the eight-hour day being adhered to as the normal working day, but legally defined exceptions being permitted under tariffs or official measures, in order to alleviate the distressed economic condition of Germany. All measures for the training of skilled workmen will be pressed forward, and the use and importation of luxuries prohibited and the consumption of alcohol restricted.

"With the view of increasing agricultural production, the compulsory cultivation of grain for bread-making will be abolished; with the improvement of the mark the main reasons for the former grain policy disappear.

"11. On the other hand, when the mark exchange becomes stable foreign states must abolish restrictions on the importation of German goods which were occasioned by the depreciation of the German currency. Moreover, Germany must also be treated on a basis of economic equality in all respects, and the independence of her industrial administration in the occupied territories must be restored, so as to render possible the balancing of German trade and payments."

In order to be able to carry out the scheme propounded above, the German Government submit to the Reparation Commission the following proposals:

(*a.*) To fix finally, as soon as possible, Germany's liabilities at an amount which, including the service of the loans to be contracted, can be defrayed from the budget surplus.

(*b.*) In the first instance, to relieve Germany for three or four years from all payments in cash and in kind under the treaty of Versailles, apart from those specified in section 4 (*a*), paragraph 2, for the reconstruction of the devastated areas.

(*c.*) To convene immediately a conference of international financiers to discuss the question of granting Germany a bank credit.

The German Government are also prepared on their part to convoke such a conference.

(*d.*) To support the proposals for the realization of the requirements specified in section 2, which the German Government will submit to the Governments concerned.

I am also instructed to inform your Lordship that in a few days two reports of experts will be communicated.

I have, &c.

STHAMER.

Reports of the International Financial Experts Summoned by the German Government to Advise them on the Financial Situation of Germany.

i. *Majority Report presented to the German Government by Messrs. Brand, Cassel, Jenks and Keynes on November 7, 1922.*

Report on the Stabilization of the Mark.

1. We are deeply impressed by the vital need of an immediate stabilization of the German mark. It is an essential condition of saving Germany from the threat of complete collapse. It is equally essential in the interests of her creditors, whose claims will otherwise become valueless. Granted certain concessions from these creditors which we indicate below, stabilization is possible. But it must primarily depend upon Germany's own efforts and own resources and on the resolute action of her Government. It is hopeless, at this stage, to expect it to be accomplished by foreign assistance as its main foundation. Germany must have a constructive policy of her own, even though it involves a risk. No other course is open.

2. To the question whether stabilization is possible in present conditions, we reply: No. First, for internal reasons, in particular the results of the financial methods adopted by the German Government during and after the war; second, for external reasons, in particular the burdens of the treaty of Versailles.

With the necessary internal action, we deal below.

3. As regards external burdens, we are of opinion that, so long as Germany is not relieved for a period from payments under the treaty of Versailles, any attempt to stabilize the mark would be futile, and could only result in the useless dissipation of Germany's ultimate reserves. Such relief is therefore an indispensable prior condition.

The length of the period for which payments must be suspended will depend on the possibility of establishing a surplus in the German budget. The essential principle is that payments must not begin again until they can be made out of a real surplus and not out of proceeds of a fresh inflation. We believe that the period must now be fixed at two years at least. The suspension of payments must include deliveries in kind as well as cash payments.

4. Any scheme of stabilization can only be regarded as provisional, pending a final settlement of the reparation question at an early date on lines capable of being carried out. Nevertheless, in view of the risks of inaction, even for a short further period, we think that stabilization

must be begun in advance, if necessary, of a definitive settlement of this question.

5. With the relief proposed above, the success of any scheme of stabilization must depend not on a foreign loan, but rather on industrial and budgetary developments within Germany and on a final settlement of the reparation problem at any early date.

Nevertheless, the support of an international consortium would be of the greatest importance in its effect on public confidence. We think that, while the plans of stabilizing the mark are being put into working shape, negotiations should be initiated immediately to obtain such support, perhaps in the form of credits to be utilized in case of need, and that a group of bankers should be called together forthwith to consider the foundation of a consortium for the purpose of co-operating in the scheme of stabilization as proposed below.

We wish, however, to make it clear that, in our opinion, pending a final settlement of the reparation question on sound lines, no credits can be obtained from a foreign consortium, except on a very modest scale, to supplement and support Germany's own efforts. No really substantial loan can possibly be obtained from foreign sources until the lenders have an assurance as to the position at the conclusion of the moratorium period. For without such an assurance no sound basis of credit exists.

6. In the long run the success of stabilization must depend on the equilibrium of the budget. On the other hand, stabilization is, in itself, a necessary condition for the recovery of equilibrium.

We have been informed from the German Treasury that, if the mark were stabilized, and if the budget were relieved of the present extraordinary charges, it would be possible to balance normal revenue and expenditure at an early date. Present conditions have thrown the statistics of the budget into confusion. But we see no reason to doubt the accuracy of this expression of opinion as to what is possible.

The utmost economy in government expenditure and the utmost rigor in the collection of taxes are of the first importance. Capital expenditure for the public services should not be charged to revenue account but paid for out of internal funded loans. Nevertheless, it is neither necessary nor practicable to prohibit absolutely an increase in the floating debt; and for a brief period it would be possible, with a stabilized mark, to allow just enough further increase to tide over immediate difficulties.

7. We have found that the principal objection in the minds of many authorities to any scheme of stabilization without a large measure of external support is based on pessimistic conclusions relating to the balance of trade. In present conditions a basis is lacking for any sound statistical conclusions. We have been given many different figures, and we doubt if any of them deserve much credence. In order to form any judgment

at all on the amount of the adverse balance, which probably exists for the moment, we are driven to another method of calculation.

On the debit side of the balance of payments, Germany has had to cover her adverse balance of trade, her payments under the treaty, and the flight of capital from the country. To meet this she has had to rely on certain items of "invisible exports," foreign credits, and purchases by foreigners of marks and mark assets. Somehow or other these different sets of items must have balanced even during the current year. If the adverse balance of trade has been as large as some people suppose, the purchase of mark assets by foreigners has to be put at an impossibly high figure.

We draw from this the conclusion that the actual trade balance against Germany can not even now be very great, and that if she is relieved of cash payments under the treaty and of coal imports in replacement of reparation deliveries, it should not be beyond her capacity to pay her way.

We think, therefore, that the state of the trade balance is not a fatal obstacle to stabilization. Moreover, a sound currency is in itself a strong corrective to an adverse balance of trade, and will bring into operation many forces tending toward equilibrium.

There is, however, one concession without which the restoration of Germany's trade equilibrium might impose privations so severe as to risk the breakdown of the practical execution of our plan—namely, the restoration to Germany of normal prerogatives in international trade, as regards her liberty to impose import duties on luxuries and a right to claim most-favored-nation treatment for her exports. Foreign countries may be more willing to modify the existing restrictions when, with the stabilization of the mark, Germany's competition on foreign markets becomes more normal in character.

8. We conclude that, in the conditions we postulate, an immediate stabilization is possible by means of Germany's own efforts. Indeed we go further. Certain technical conditions are now present—the large gold reserve, the scarcity of currency, the margin between external depreciation on the one hand and the degree of internal inflation and internal depreciation on the other—which render the position unusually susceptible to control. At the rate of 3,500 M. to the dollar, the gold in the Reichsbank now amounts to about twice the value of the note issue. This is an unprecedented situation. No other currency has fallen into decay with so great a potential support still unused.

9. We think it would be imprudent to attempt the stabilization, which we recommend, except at a low value for the mark, although this value might be appreciably higher than at present. It is impossible to say at the moment what the rate should be. The recent great collapse is mainly

due to a failure of confidence, and if the measures indicated above are taken, a great improvement might occur immediately. As an illustration of our opinion, we should, under the conditions existing as we write (7,000 M. to the dollar), regard some rate between 3,000 and 3,500 M. to the dollar as appropriate. But it is necessary to remember that at any such rate as this a great increase in the volume of notes will gradually become necessary as the business of the country reverts to normal conditions. The definite rate to be adopted should be fixed with reference to the internal purchasing power of the mark and to the position of the external exchanges at the date when the plan outlined in the second part of our report is put into operation, the general lines of the plan having been announced some short time previously.

It is evident that, after stabilization is fully accomplished, a new unit, being some multiple of the stabilized paper mark, should be adopted for general convenience.

Outlines of a Plan for Stabilizing the Mark.

1. In return for a suspension of payments under the treaty of Versailles for a period of two years, the German Government should offer to the Reparation Commission the following definite guaranties:

(*a.*) That an independent board of exchange control would be constituted as a special department within the organization of the Reichsbank, and that the Reichsbank would hold adequate gold from their reserves at the service of the board.

(*b.*) That so long as any part of such gold is unpledged, paper marks shall be purchased by the board of exchange, on demand, at a fixed rate to the dollar; this fixed rate to be determined on the principles outlined in the first part of our report.

(*c.*) That the aggregate value of the net floating debt shall not be increased beyond a defined figure; all other Government requirements for credit to be covered by funded loans.

No modification to be made in the above without the permission of the Reparation Commission.

It would be necessary, further, for the Reparation Commission on the one hand and the German Government on the other, to exempt the resources of the board of exchange from interference.

2. On the consent of the Reparation Commission being obtained to the above, the following measures to be taken:

(*a.*) Financial co-operation and support of an international financial consortium to be invited.

(*b.*) A foreign currency reserve, on such scale as may be required, to be created on the basis of the gold at the disposal of the board of exchange, in conjunction with the credits which may be negotiated with the international consortium from time to time on such security as may be acceptable.

(*c.*) The abolition of all exchange regulations and the restoration of free and unrestricted dealings in exchange and foreign securities.

3. The board of exchange to buy and sell foreign exchange on demand (on gold exchange standard principles) against paper marks at fixed rates, the selling rate being not above 5% dearer than the buying rate in the first instance.

4. The bank rate to be raised to a high rate, and dear money to be maintained until stabilization is quite secure, but discounts and advances to be made freely at this rate for regular trade transactions against all normally approved security.

5. In order to concentrate into its foreign currency reserves as large an amount as possible of the free foreign assets of German nationals under conditions which would inspire confidence

(*a.*) The board of exchange would issue gold bonds, guaranteed by the Reichsbank, at an adequate rate of interest, repayable in gold in one or two years, in exchange for foreign banknotes, bank balances, &c.

(*b.*) The board of exchange would buy foreign exchange spot and sell it forward at appropriate corresponding rates for various periods.

6. The additional notes required to carry on the business of the country, as it returns to more normal conditions, would be issued

(*a.*) By trade discounts and trade advances by the Reichsbank; and

(*b.*) The sale of marks by the board of exchange against the receipt of foreign currency, and, to the least possible extent and for a period not exceeding six months, against further treasury bills issued to cover the budgetary deficit during the transitional period before the budget can be balanced.

R. H. Brand.
Gustav Cassel.
Jeremiah W. Jenks.
J. M. Keynes.

Berlin, November 7, 1922.

ii. *Minority Report Presented to the German Government by MM. Vissering, Dubois and Kamenka on November 9, 1922.*

First question: Is it possible under present circumstances to stabilize the value of the mark?

We answer: It is impossible to arrive at a permanent stabilization of the mark as long as

1. Paper money inflation, at present a chief cause for the deficit in the German state budget, and her administrative services, has not been curbed.

2. That the balance of payments will remain passive owing to excess of imports, the flight of capital into foreign parts, the domestic aversion to the mark and the deliveries to be made in kind and in cash under the head of reparation.

Second question: If to the first question a reply in the negative is given, what presuppositions would have to be realized in order to render stabilization possible?

The answer to this question has already been given in the reply to the first question.

Nevertheless, we deem it of value to emphasize:

1. Paper money inflation had already begun to produce its abominable effects in Germany as elsewhere, when, during the course of the war, expenditure was provided for not by the regular receipts from taxation, but by badly-placed loans, and, above all, by turning for aid to a floating debt, which has grown later on by the necessity for providing food, and, finally, by the deficits of the ordinary and of the extraordinary budgets of the Reich.

But every inflation leads out of itself to new inflation, for every time that the purchasing power of the mark is reduced the transaction of the like bartering operation requires a higher sum.

If the measures for the stabilization of the mark are to be permanently successful, causes of inflation due to the Government must be made to disappear.

Which means: The budget of the Reich must really balance, the actual expenditure must range within the bounds of the preliminary estimates that should be kept on the lowest possible level. If the receipts are insufficient for covering the expenditure, it will be imperative to open up new sources of revenue; finally, the extraordinary budget of the Reich must not be charged with expenditure on investments in immovables, which may either be avoided or suspended till matters improved, nor should the extraordinary budget of the Reich embrace preliminary estimates for payment of reparation exceeding whatever surplus there may be out of the receipts of the ordinary budget of the Reich.

The fulfilment of such purpose necessitates strict economy in the expenditure of the Reich, reduction of the staff in public administration and state services, as well as the gradual diminution of direct and indirect food subventions.

2. Unfortunately we have no accurate data for the present balance of payments in Germany, nor even a definite statement of the figures relating to her balance of trade.

All that one can say is this, that financially the balance seems to show a rather heavy deficit.

Whence arises this deficit?

(*a.*) From the sinking of the exports, which is ascribed to internal as well as external causes. In the list of internal causes is adduced the diminution of productive capacity owing to present working conditions. It is not our office to interfere with internal questions of German legislation, but we are of opinion that every effort should be made by the Government and the population to recover such productive capacity.

The principal external cause is said to be derived from the impediments placed by foreign nations in the way of importation of German goods. This is a very delicate matter, for abroad there have been continual and not unfounded complaints on the severe competition that German industry has entered into with various countries throughout the last few years, leading to the ruin of several of their branches of industry. If Germany is desirous of having these restrictions removed then she should compete on a normal basis, *i.e.*, such competition should not be the result of the cheap prices of her goods owing to the successive falling of her exchange.

Be that as it may, all that can be said is that it will be impossible to arrive at an equilibrium of the balance of payment, unless the possibilities of export are developed.

(*b.*) By increasing imports abnormally under the present conditions. The mark has sunk to such an extent that the confidence of Germans themselves in their own country is more than shaken. Hence the diminution of the desire to save and the tendency to spend the mark either for immediate amusements or for hoarding up commodities. If confidence could be restored by stabilization setting in, this cause for importation would disappear.

On the other hand, importation is favored by the obligation of Germany to allow certain foreign goods to enter the country, as well as through the so-called hole in the west.[1] It is evident that the German Government, having their hands tied in this respect, will find it very difficult

[1]This refers to the fact that a customs barrier is erected in the occupied regions unfavorable to German exports, but no countervailing duty can, under the treaty, be established by Germany against imports.

to keep up anything like a serious control of imports and to keep them effectually down.

Moreover, a temporary increase of imports has set in, viz., for cereals, which will be especially heavy owing to the bad domestic harvest. But this factor is not a permanent one.

Lastly, the importation of coal is, above all, the consequence of obligatory deliveries of coal to the Allies. As long as no other arrangements take place, this cause for a passive balance of trade will remain.

Flight of German Capital into Foreign Countries and Domestic Aversion to the Mark.—We have no data as to the volume of such flight of capital. But we are of the opinion, on the one hand, if the stabilization of the mark were about to be realized, one of the motives for this flight of capital will disappear, and that possibly a successive return of capital would take place, and, on the other hand, that German fiscal legislation ought to bear in mind that in exceeding certain limits in taxation of property and income it provokes the flight of capital, and that even by the most drastic measures of control it will not be possible to put a complete stop to such exodus.

(*d.*) Finally, during the past few years and up to quite recently the German Government have been forced to make cash payments and payments in kind on the score of reparations, largely influencing its balance of payments, and we consider all attempts at stabilizing the mark at present to be futile, if these payments do not cease until such a time that there are well-founded prospects for establishing such equilibrium.

To recapitulate, one of the conditions for a definite stabilization of the mark being that the balance of payments be not longer unfavorable to Germany, it is necessary that the above-enumerated factors leading to such passivity be removed. The German Government inform us that if Germany were relieved for a sufficiently long period from the making of reparation payments they are convinced that in a comparatively short time the situation would show a marked improvement. We can not but take cognizance of this declaration.

Third question: What measures should be adopted for stabilizing the mark, as soon as the foregoing presuppositions have been realized?

As soon as the above-mentioned presuppositions are fulfilled or about to be realized, we propose the following measures:

I.—Standard of Value.

Considering that the paper mark under the conditions prevailing at present has totally lost its character as a standard of value, the question of creating a new and permanent standard of value must be approached in the very near future. Such standard might best be found in a new

gold mark. On account of the impoverishment that has supervened in public life in general, it would appear advisable, however, to discard the present calculation and to choose a smaller unit, which, for the purpose of facilitation of conversion, ought to be some precise fraction of the £ sterling or the dollar, *e.g.*, 1/40th £ sterling, respectively 6*d.* or 1/10th dollar. This unit shall be called the "new gold mark."

II.—The Money Bank.

For the purpose of carrying out the stabilization of the mark, it would be suitable to create an independent organization constituting a juridical entity; for instance, in the shape of a joint stock company, which might be designated money bank, for the reason that it is to be established for the purpose of introducing a new kind of money.

The original capital would have to be fixed at 100 million gold marks, which would have to be paid in by the Reichsbank in gold. As a consideration the Reichsbank receives the shares of the new money bank, in which way the assets of the Reichsbank would not be diminished.

As the establishment of this bank, however, would take some considerable time, we are of opinion that, in the first instance, a committee composed of representatives of the ministry of finance, of the foreign lenders and of the Reichsbank ought to be convened in order to arrange for the initial steps for effecting stabilization.

If, in the following sections, the money bank is referred to, *pro tem.* the above-named committee is meant.

III.—International Banking Credits.

The stabilization of the mark can only be carried out by means of a considerable foreign credit, of, say, about 500 million gold marks of the present currency. Such credit would best be granted in the shape of an accept-credit with foreign banks. The credit ought to be at the disposal of the money bank, which could, as required, claim advances by issuing bills, thus enabling the money bank to purchase exchanges.

For granting such credits, larger banks in the United States of America and European states possessing a normal currency would come into consideration. Banks of other countries, the co-operation of which has been solicited, declaring their willingness to participate in such action, might also join this group.

Under the auspices of the Reparation Commission an international banking committee should be convened as soon as possible, which committee would be charged with the task of creating a banking consortium in order to investigate, in touch with the Reparation Commission and the German Government, the question of credits and the guaranties to be rendered in conjunction with same.

IV.—Preliminary Conditions with respect to Stabilization.

We deem it advisable to reiterate on this occasion that a definite stabilization is only to be accomplished if the conditions prevailing in Germany render a *de facto* stabilization possible, viz.:

(*a.*) By the balancing of the budget.
(*b.*) By bringing about an active balance of trade, or at least one whose equilibrium has been restored.
(*c.*) By restoring the equilibrium of the balance of payments.

Sub (*a.*) Provided a balancing of the budget is not possible by means of increasing the revenue by way of taxation, such balancing must be attempted by a diminution of expenditure. It being hardly possible to bring about considerable increase of revenue, this aim may perhaps only be attained by diminishing the expenditure. First of all, not only the deficits of the railways and postal services, including telephones and telegraphs, must be eliminated, *i.e.*, working revenue must cover working expenditure, but these institutions must beyond that furnish a surplus to insure an adequate amortization of immovables as well as the payment of interest on the capital invested. It is furthermore absolutely necessary to discontinue as soon as possible the subsidies which are to be paid in consequence of Government control and which are responsible for a fallacious calculation of prices. As a last resource a reduction in the number of officials would have to be resorted to.

As regards extraordinary expenditure as far as they refer to absolutely necessary permanent investments for railways, canals and the like, it is to be remarked that the pecuniary means required for same must be raised by internal loans. As regards reparation payments, they shall be dealt with below.

Sub (*b.*) Every measure must be tried in order to make the balance of trade active, which would at the same time exercise a favorable influence on the balance of payments. With this end in view, an increase of production must above all be brought about by an improvement of methods of manufacture as well as by increasing the intensity of labor, and, if necessary, by increasing working hours.

Simultaneously, the question of reducing wages and adaptation of same to the prevailing value of money might be investigated. It is, however, not to be expected that the workmen will agree to these measures as long as, on the one hand, increased work does not benefit Germany as a whole and the workmen themselves, and, on the other hand, normally reduced wages do not increase the purchasing power.

Sub (*c.*) Reparation payments must not be imposed upon Germany as long as they can not be paid for from the surplus of the budget, as otherwise such payments will lead to a new issue of treasury bonds, and

thus to an increase in the circulation of banknotes, *resp.* inflation, and in this manner would make stabilization impossible.

A definite stabilization can only come into consideration after the above conditions have been fulfilled. For this purpose the Government must balance the budget, industrials and workmen must endeavor to increase their working output, and the allied Governments must agree to the settlement of the obligations arising out of reparations.

A permanent stabilization of this kind is only to be maintained after the reparation question has found a definite solution providing for a definite mode of payment.

V.—Provisional Stabilization.

If there is a reason to hope that the above conditions can be fulfilled at a not too far-distant date, the attempt of a provisional stabilization may be undertaken.

In this respect, however, one should not lose sight of the fact that a provisional stabilization bears in itself a certain risk, inasmuch as afterward it might be found that the necessary presuppositions could not be fulfilled.

The first stabilization should be begun as follows: As, above all, it is necessary for the money bank, which will be charged with the management of the operations, to have at command means sufficient to oppose all counter-tendencies, the money bank, *i.e.*, the committee, should have at their disposal

1. The entire foreign credits; and
2. As great as possible a part of the gold of the Reichsbank.

By the aid of these extensive liquid means the money bank ought to buy mark assets and banknotes in marks, principally by concentrating its activities on foreign markets.

We believe that by a suitable action all possibly initiated counter-operations could effectually be met and a considerable improvement of the rate of exchange of the mark on foreign markets could be arrived at.

To produce an upward movement of the mark is one of the principal aims, as the latest drop of the mark is essentially due to a crisis brought about by lack of confidence, which, after being eliminated, might soon be succeeded by a counter-tendency.

Supposing that in this manner the mark can be brought back to a considerably higher level, important advantages will result, as set out below:

(*a.*) The proportionately too great depreciation of the mark will be checked.

(*b.*) The mark will be placed at a level which, compared with the present rate, would not entail a complete devaluation of all mark assets of whatever description.

(*c.*) The higher the level of stabilization is chosen, the sooner the notes in circulation at present will suffice for the requirements of the country.

On the other hand:

(*a.*) A definite adoption of wages to the new internal value of the mark will require a period more or less extended, during which serious difficulties will have to be overcome; and

(*b.*) A considerable reduction of prices will have to be the natural consequence.

An improved economic situation brought about by stabilization will also facilitate the carrying out of a sound economic policy on the part of the Government. Thereupon it will also be possible to establish the budget on a firm basis and to restore the equilibrium.

VI.—Date on which the Provisional Stabilization is to be Effected.

Taking into consideration all these desirable effects, it would appear absolutely necessary immediately to undertake the attempt of a provisional stabilization, provided there is a prospect of the above-mentioned presuppositions being fulfilled at not too far distant a date.

VII.—Conversion Bank.

As soon as a sufficiently high rate of exchange of the mark has been attained, all means should be adopted to maintain the mark at this level, either by purchasing foreign exchanges when the mark rises, or by the purchasing of marks when a support of the mark seems advisable.

VIII.—A Possible Parallel Currency.

The aim to be attained is the creation of a gold standard. In case a transition period should be necessary, it would be advisable temporarily to leave the paper mark in circulation and simultaneously to introduce the gold mark as money for calculation.

We trust, however, that a direct change from the paper currency to the gold standard will be possible.

IX.—Definite Stabilization.

Subsequently it will have to be considered in which manner the paper-mark notes still in circulation could be exchanged against gold-mark notes or corresponding assets. After carrying out these measures the dissolution of the money bank could be considered, and thereupon the Reichsbank alone could be intrusted with the issue of notes and the manipulation of its parity.

X.—The Floating Debt.

During a certain period of transition it will not be possible altogether to check an increase of the floating debt; the German Government accordingly ought to be provided with the possibility of increasing the floating debt up to a limited amount still to be defined, until the favorable effect of the stabilization has made itself felt.

The measures to be taken ought to be arranged for immediately, for otherwise it is to be feared that an action will come too late to be successful.

G. Vissering.
Leopold Dubois.
B. Kamenka.

Berlin, November 9, 1922.

2. Tentative Plan of the German Government for a Provisional Settlement of Reparation, December 10, 1922.[1]

i. *German Proposal for Settlement.*

The German Government are firmly convinced that a definite solution of the reparation problem is urgent and vitally important for the reestablishment of normal conditions in Europe. Consequently, the German Government are straining all efforts to actively contribute to bring about such a solution. Considering the difficulties of the present situation, however, the German Government are of opinion that it is necessary to undertake the stabilization of the mark, and to provide an arrangement for the financing of the reparation annuities for the next few years, in order to create a basis for political rest, without which a satisfactory final solution can not possibly be obtained.

The following suggestions for a provisional arrangement should therefore be considered as paving the way for a speedy definite settlement of reparation:

1. Stabilization of the mark.

As stated in the note handed to the Reparation Commission on November 14, 1922, the mark should be stabilized forthwith, in order to reorganize German finances and thereby to enable Germany to pay reparation. While foreign aid in the form of an important international bankers' credit is still considered to be the most efficient means of insuring a full success of the stabilization, the German Government are resolved to try and begin the stabilization with their own resources, in the event of it being impossible to obtain foreign credit assistance immediately,

[1] *Interallied Conferences*, p. 57. For economy of space the covering note is omitted.

hoping that, once the stabilization action has been undertaken, foreign credits will be forthcoming in support.

The action to stabilize the mark can, of course, only be undertaken if, as requested in the German note of November 14, 1922, the reparation obligations of Germany be so arranged for the next few years as to make them possible of execution and if Germany be allowed equality in trade facilities with other nations.

2. Reparation.

Germany desires that for the next few years the current obligations under the treaty be replaced by a gold loan to be issued in Germany and abroad. For the internal part of the loan it is intended to allow far-reaching exemption from taxes in order to insure as great as possible a success of the issue. The proceeds of the external loan would be made available in full to cover the German obligations under the treaty, and, for the same purpose, at least one-half of the internal loan. The remaining part of the internal loan would be used for Germany's own requirements, especially for the stabilization action. The internal loan would be issued at once upon conclusion of the provisional plan.

3. The German Government are prepared immediately to enter into negotiations with the Allies in order to bring these ideas to a practical issue.

As to the particulars of the plan, the following suggestions are put forward for consideration:

The gold loan to be issued in Germany should carry not more than 4% interest and ½% sinking fund, and, should on the other hand, entitle the subscriber to exemption from German taxes, more especially from inheritance, capital and capital revenue taxes. Subscribers of the loan should also receive amnesty as regards any contravention of the German laws concerning the flight of capital. In this way it is hoped to induce German capital hidden abroad to return to Germany, and to invest in the reparation loan.

All payments upon the loan to be made in foreign exchange based on the dollar rate of the day. Payments on the loan should be accepted on the international markets, as, for instance, Amsterdam, London, New York, Zurich, where the loan should be admitted to official trade, and where interest and capital redeemed would be made payable. The proceeds of the loan to be issued in Germany would be applied as follows:

One-half to be paid over to the Reparation Commission.

The other half up to, for example, 1½ milliards of gold marks to be used for Germany's own needs, more especially for stabilization of the mark and for balancing the budget. Any excess of the second half of the

loan over the 1½ milliards of gold marks likewise to be paid to the Reparation Commission.

Simultaneously with the issue of the loan in Germany, the German Government would remit to the Reparation Commission, for example, 3 milliards of German reparation gold bonds, which should be issued abroad and the full proceeds of which would be paid to the Reparation Commission. Interest and sinking fund on these bonds shall be paid forthwith. Whether the gold bonds to be handed over to the Reparation Commission should be of the same type as the gold loan to be issued in Germany, or whether they should form a separate loan, is a matter to be considered with a view to the practical possibilities of disposing of the bonds.

The German Government would ask to be freed for two years from all current payments under the treaty of Versailles and from such deliveries in kind which could not be paid out of the German budget. The fact that a part of the internal loan will go into the German budget should increase Germany's capacity to make deliveries in kind. The German Government would ask, furthermore, that for every milliard of gold marks paid to the Reparation Commission out of the proceeds of the internal loan, no other payments under the treaty should be asked for from Germany for one additional year.

The whole arrangement should not cover more than four or five years.

The reparation gold bonds described above could be secured by the German custom receipts. They should have priority over all the other obligations of Germany as regards payments under the treaty.

ii. *Mr. Bonar Law to Dr. Cuno.*

10, Downing Street,
December 10, 1922.

Your Excellency,

I have the honor to acknowledge the receipt of your note of the 9th instant, submitting a plan for a provisional settlement of the difficulties connected with the question of reparation.

The note was considered at a meeting of the Allied Prime Ministers held here to-day, and it is with sincere regret that I have to say that the plan submitted does not, in their opinion, offer a solution which could, in the existing situation, be considered satisfactory to the Allied Governments.

I have, &c.

A. Bonar Law.

3. Memorandum Communicated by the Italian Delegation to the Interallied Conference, Paris, January 1, 1923.[1]

I have the honor to represent again to the Conference of the Premiers the project of "règlement" of reparations owed by Germany, which the Italian Premier, Signor Mussolini, has submitted to the London Conference in December last.

The Paris Conference being a continuation of that one of London, the Italian project (that has been the object of a first examination left in abeyance) should be logically reconsidered at the reopening of the conference.

Some modifications have been made to the project in order to draw nearer the different points of view raised at London and after, and to facilitate the consent of all the Allies.

Before coming to London I had taken the liberty to ask to know the plan of discussion of the questions which are going to be the object of the present meeting. I wished to know whether it would have been question of tackling a particular and transitory feature of the reparations question, as, for instance, the grant of fresh moratorium, more or less long, to Germany, in place of the one which comes shortly to an end, or whether it would have been question of facing the whole of the reparation problem, in order to find a final and definite solution for it. Since we have met in London I think that we can take the reciprocal and formal engagement not to dissemble before having fulfilled our task, which is the one to decide in its general lines the reparation problem, leaving to the delegates, who will be meeting in Brussels or elsewhere, the task of setting it out in its definite form.

All the peoples of Europe are waiting with an eagerness, which I might define as poignant, the results of this meeting, and this eagerness grows more serious from day to day as the economic situation becomes more grave. After four years from the armistice the European situation has not improved. It presents two features to us; the economical, that is always worse than the political, which shows a progress toward normality of social intercourse, From 1919 to 1920 it looked for a moment, with the communistic outburst of Budapest and Munich, with the occupation of the workshops in Italy, with the Bolshevik offensive against Poland, and with numerous local revolutions in Germany, that the Bolshevik war would have seriously menaced that sum of juridical, political, economical institutions which form the basis of western civilization. At present the danger represented by this sort of moral epidemic is very greatly diminished. However, to avoid a relapse it is necessary to remove from the economical life of Europe that state of uncertainty which makes its harmful effects felt both on the industrial and working classes. The efforts

[1] *Interallied Conferences*, p. 108. For earlier drafts of the memorandum see p. 28.

made by all the powers to put Austria on her feet show that it would be very dangerous for everybody, not excluding the wealthier countries on both sides of the Atlantic, to spread the state of semi-chaos in which a great part of Central Europe finds itself.

This state of chaos is the result of the postwar policy, which is still dominated by the reparation problem.

Italy, who is in an especially difficult plight, and has made great and important sacrifices in men and wealth in the common war, is particularly interested in this problem. The Italian Government affirms as an almost essential condition that in order to improve Germany's condition it would not be right, and it would be greatly unfair to ruin Italy, France, Belgium and the minor allies, and that it is not therefore possible in the question of reparation to ignore the question of the interallied debts.

The ideas of the Italian Government, which I have the honor to represent, can be summoned up in these terms:

1. To put aside any solution of the problem which is only partial or dilatory.
2. Absolute impossibility for Italy to give up any part of her reparation, except in the case that a fair settlement of England's part of her credits toward the Allies might allow everyone to give up their respective share of the reparation on Germany's behalf. The hope for such a settlement has its grounds in the traditional and great part played by England in the equilibrium, and the moderation of the life of the European continent, in the feeling of certain strata of British public opinion, as well as in Balfour note, which the Italian Government and nation have greeted and considered as the way toward the radical solution of the problem much looked forward to.

The Italian Government frankly and honestly asks for this settlement on Britain's part, basing its demand on the following reasons:

(*a*.) The Italian Government is of the opinion that the interallied debts—as already remarked—are of quite a peculiar nature, and that they can not be considered as ordinary debts.

(*b*.) The British Government and the most prominent British financiers and business men are perfectly aware that England can not possibly pretend the payment of these debts without dragging the Allies in the abyss of political crisis and economical bankruptcy, which would have an immediate and serious effect on all Europe, Great Britain included.

The Italian Government believes that with its action England would improve the economical position of the Allies and of Germany.

3. Settlement of the German payments by granting a moratorium and by facilitating loans to Germany with guaranties and modalities to be arranged elsewhere.

After this introduction of a general nature the Italian Government has the honor to make to the Allies the following suggestions:

1. The allied powers are agreed to effect the settlement of bonds "C"—

(*a.*) By the value of the state property transferred by Austria and Hungary (arts. 208, treaty of Saint-Germain, and 191, treaty of Trianon).

(*b.*) By the amount of reparation to be charged to Austria and Hungary over and above the value of transferred property (art. 179, treaty of Saint-Germain, and 163, treaty of Trianon).

(*c.*) By the amount of reparation due from Bulgaria (art. 121 of the treaty of Neuilly).

(*d.*) By the compensation with the different credits recognized by the Reparation Commission in Germany's favor to be entered to the account of the capital debt, such as the value of ceded state property, the difference between the value credited to Germany for ships delivered under Annex III and the value debited to the receiving powers (art. 12 of the Interallied Financial Agreement of March 11, 1922); a part of the value of the Saar Mines (art. 9 of the above agreement);[1] the value of submarine cables, &c.

(*e.*) By the cancellation of a part of the said bonds, equal to the amount of the debts contracted during the war or for war purposes by France, Italy and other states having a right to reparation, with Great Britain, and of which amount Great Britain agrees not to claim payment.

On the eventual surplus no payment will be required by any allied power, except that the United States should, by that power, claim payment of the debt contracted during the war or for war purposes.

2. The German reparation debt will thus be reduced to the Series "A" and "B" bonds, that is to say, to 50 milliards of gold marks.

3. A two years' moratorium will be accorded to Germany in respect of the payment of the 50 milliards ("A" and "B" bonds). The concession of this moratorium is subordinate to the constitution of guaranties as indicated in the sub-annex.

4. With the shortest possible delay, Germany will contract a loan of at least 3 milliards of gold marks, of which one part will be utilized for the stabilization of the mark, and for its improvement, according to the

[1] Vol. V, p. 129.

suggestion of the economic and financial experts called to Berlin by Chancellor Wirth.

The other part will be divided—during the period of the moratorium—among the Allies having a right to reparation. This sum will be deducted from the German capital debt, account being taken of the fact that the Allies are receiving payment in advance (present value).

The German Government binds itself to obtain that, before [blank date] the banks and German industries guarantee to issue a loan of a minimum of 3 milliards of gold marks.

5. Certain German state revenues, on which there is at present a reparation lien, will be taken over as security for this loan.

The Reparation Commission will permit the lenders to be guaranteed by priority on these (art. 248, treaty of Versailles).

6. The powers having a right to reparation can ask Germany to continue the deliveries in kind (coal, dyestuffs, &c.), according to the terms of the Annex to Part VIII of the treaty of Versailles, under the conditions and at the prices indicated in these annexes.

Germany will be paid by each of the receiving powers for the amount of the abovementioned deliveries in kind from their quota of the loan due annually to them.

7. During the period of the moratorium the Reparation Commission and the Committee of Guaranties, in the exercise of their powers, even enforcing them if necessary, will see that the German Government takes every necessary measure for the stabilization of the value of the mark, for the execution of the financial reforms required by the Committee of Guaranties, for balancing the budget by the suppression of all expenses, not indispensable (especially those in respect of public works), by assuring the largest possible entries from taxation and by stopping the inflation of currency.

8. When the period of the moratorium has expired and German credit is re-established, Germany will recommence reparation payments by means of larger loans, which she undertakes from the present to contract.

9. Should Germany execute payment of the amount of her obligations in advance, the advance instalment shall be used for the reduction of her capital debt and discounted at the rate of

—per cent. if the instalments are paid within a period not exceeding ten years.

—per cent. if the instalments are paid within a period not exceeding six years.

—per cent. if the instalments are paid within a period not exceeding four years.

Sub-Annex.

Productive Guaranties which can be Required of Germany.[1]

1. *Continuance of the Control actually Exercised by the Allies on Export and Import Licenses.*

It is known that, according to interallied agreements, this control should be discontinued and replaced by the surveillance of a mixed commission, composed of allied and German representatives.

2. *Direct Management of the Outer Rhineland Frontier by the Allies.*

The Allies have already had the management of this customs line in the past.

It may be expected to yield from 140 to 180 millions of gold marks.

The receipt in paper marks could be transformed into gold marks by the Ems office, which would grant export licenses on condition that the exporter hand over a part of the foreign currency realized, the Ems office reimbursing him in paper marks.

3. *Control of State Enterprises Administrating the German State Forest.*

The control to be exercised by the delegates of the allied Governments or by the Reparation Commission would also allow of more extensive timber cutting, and, in consequence, of regular and larger deliveries to the Allies on the reparation account.

4. *Control of the Output of the Ruhr State Mines.*

The control of the output of the state mines would make it possible to guarantee the reparation coal deliveries and insure the necessary quantities for the Rhineland against the attempts of the Reich to cause an economic crisis in occupied territory.

4. Memorandum Communicated by the French Delegation to the Interallied Conference, Paris, January 2, 1923.[2]

Sorely as she has been tried by the war, France will not adopt an attitude of indifference toward the relief of any of the nations now suffering from the general crisis. Only yesterday in regard to the Austrian question she gave a striking proof of her sentiments of solidarity. She ardently desires to work in close agreement with the Allies in the consolidation of peace by the carrying out of the treaties and the reconstruction of all the countries to which the events of recent years have

[1] See *Interallied Conferences*, p. 54 and 59 for an earlier draft.

[2] *Interallied Conferences*, p. 101.

dealt a vital blow. She can not, however, forget that it is Germany who declared war upon her, Germany who invaded ten French departments and systematically laid them waste. She considers that full reparation for this devastation as ordained by the treaty of Versailles is a work of elementary justice. She is alike convinced that this reparation, an indispensable condition of the restoration of French finances, constitutes the only logical preparation of an economic reconstruction of Europe. It is in accordance with this order of ideas that she submits to her allies the following program of work which the Government of the Republic is prepared to justify and to develop in exact detail before them.

This program entails:

1. The effort to discover a solution of the problem of reparation and of interallied debts.
2. The adoption of a definite policy regarding the stabilization of the mark and the reorganization of German finance.
3. Immediate decisions respecting the moratorium demanded by Germany and the pledges the seizure of which the French Government conceives as indispensable alike to secure the continuation of the payments during the moratorium and in anticipation of an ultimate default by the Reich.

I.—Reparation and Interallied Debts.

Germany has demanded:

1. A reduction of her debt on the score of reparation.
2. The fixing of that debt in proportion to the possible surplus yields of her budgets.

The latter request is clearly inadmissible. The surplus yields of Germany's budget in fact are the outcome of her policy and of her goodwill; past experience can not give the slightest confidence in regard to the future. In a special note, the French Government reminds its allies of the incalculable defaults of which Germany has been guilty during recent months. They are significant and forbid us to entertain any illusions.

The French Government declares its unwillingness to accept any reduction, as far as it is concerned, of the payments which Germany owes under the Schedule of Payments. This amount in fact is from the very outset inadequate to meet the costs of pensions and of the reconstruction of the devastated areas.

Accordingly a reduction of the German debt could only be contemplated by the French Government if certain of its allies agreed to the possibility of a reduction or some other readjustment of their credits against Germany by the modification of the percentages and the assignment of a priority

for the reparation of the devastated areas. It is not for France to anticipate in this connection the provisions to be adopted by the other creditors of Germany.

Since, however, we have been given to understand by an official communication from the British Government that that Government would be ready to abandon or reduce its demands upon Germany subject to certain conditions affecting the problem of interallied debts, the French Government conceives it to be its duty to indicate its standpoint regarding this question. It will not revert to the origin of these debts or to their real meaning. It will confine itself to recalling the fact that they were contracted with a view to the common victory, that they constitute the expenses of war and that, in harmony with the principles founded on arts. 231 and 232 of the treaty of Versailles, they ought to be covered by the credit derived from reparation. The French Government can not either in equity or in deed pay either the capital of these debts or the interest upon them until it is at least indemnified by payments from Germany for the expenses incurred and to be incurred for the reconstruction of the devastated areas. These expenses in the main correspond with the French share in "A" and "B" bonds.

If certain of its creditors were ready to accept a settlement of that character, the French Government would be ready at once to deliver to them against its share in the "C" bonds a nominal capital equal to the nominal amount of its debt.

It declares itself ready to cancel the "C" bonds which it would eventually receive as payment of the debts due to it, if this form of settlement should be adopted by the European powers in concert and if those of them which are creditor powers should also decide to cancel the "C" bonds which would be made over to them.

As regards the condition of payment of the German reparation debt, as fixed by the Schedule of Payments or as eventually reduced subject to the hypothesis above mentioned, the French Government is of opinion that it is in the common interest of the Allies and of Germany to insure payment within a briefer space of time than that contemplated for the redemption of the "A" and "B" bonds.

The French Government therefore admits that the payments which it is anticipated that Germany would make should be discounted to her at an equitable rate to a date to be fixed.

In view of Germany's actual inability to make such payments upon any appreciable scale except from the yield of loans contracted by her abroad, the French Government considers that the allied Governments should by every means in their power facilitate the issue of these loans.

Moreover, it is of opinion that such loans would be possible in the very near future, as substantial securities could at once be procured in Germany

for the service of limited loans and as the appropriation of these securities to such loans could be effectively controlled by the Guaranties Committee, to which would be added, in harmony with the provisions of art. 6 of the Schedule of Payments, representatives of the subscribers.

An extensive mobilization of the German debt could not, however, be brought about until order is re-established in German finances, subject to the conditions and to the control indicated in the following chapter.

II.—Reorganization of German Finance.

The French Government is of opinion that the program of reorganization of German finance ought to include the following essential articles:

(A.) 1. Elaboration by the German Government of a plan of stabilization of German currency to be submitted to the approval of the Reparation Commission entailing no intervention upon the money market beyond such as will be necessary to maintain the value of the mark in foreign exchanges at the rate recorded at the beginning of operations until the internal value of the currency has fallen to a rate bordering upon the foreign value which will remain constant.

2. Measures to be immediately adopted to restore the equilibrium of the German budget and to maintain that equilibrium by progressively introducing into the expenditure the credits necessary to enable Germany to discharge her reparation debt.

3. The stoppage of the discounting of treasury bills by the Reichsbank from the beginning of the application of the plan of stabilization. Provision would be made for the needs of the Reich which would not be provisionally covered by normal receipts, by means of the issue of internal loans in gold.

4. Strengthening of the measures designed to prevent the flight of capital abroad and the hoarding of foreign securities at home.

(B.)—Organization of the control of the application of the foregoing provisions by the Guaranties Committee subject to the following conditions:

(*a.*) A complete plan of legislative and administrative measures will be adopted by the German Government in agreement with the Reparation Commission. The German Government will undertake immediately to lay this plan before the Reichstag and so far as is necessary before the assemblies of the states which must support it and undertake not to modify it excepting in agreement with the Guaranties Committee.

(*b.*) The Guaranties Committee will be placed in a position to follow the execution of this program and more particularly at any moment respecting

every detail and every stage, to know the state of the administration of the finances of the Reich and of the states. For this purpose it may have recourse to every method of investigation which it judges useful. It may prohibit all expenditure which it considers inopportune and prescribe any increase of revenue deemed possible by it and designed to enable Germany to meet the reparation charges. It will exercise over the Reichsbank and all other organizations called upon to co-operate in the modification of the German currency régime the control necessary to assure the execution of the scheme of reform approved by the Reparation Commission.

(*c.*) If the program contemplated above is not voted within the period fixed by the allied Governments, if the obligations mentioned are not assumed or if they are not kept, or, finally, if the German Government does not at once conform with the injunctions of the organization intrusted with control, this failure would *ipso facto* constitute a voluntary default within the meaning of pars. 17 and 18 of Annex II to Part VIII of the treaty of Versailles, and the whole body of penalties mentioned in Chapter IV below would immediately and automatically come into force. The allied powers will in advance bind themselves as regards one another to instruct their delegates on the Reparation Commission to this effect.

(*d.*) The final provision of art. 7 of the Schedule of Payments, according to which "the Guaranties Committee is not authorized to intervene in German administration," will not be considered as being qualified to place an obstacle in the way of the application of the foregoing provisions. It will be fully understood that the intention of the above-cited stipulation is merely that the Guaranties Committee may not substitute itself for the German administrative services and assure their direction.

(C.)—Transference of the seat of the Guaranties Committee to Berlin and addition to this committee, as soon as foreign loans have been issued, of representatives of the subscribing countries.

III.—Moratorium and Pledges.

The French Government is of opinion that in 1923 Germany would be able, in agreement with the great industrialists, to make an effort sufficient to execute the Schedule of Payments, and that in any case the moratorium demanded by Germany is only acceptable on condition that it does not relate to the whole body of payments due from Germany and that it is accompanied by the seizure of pledges.

1. *Extent and Duration of the Moratorium.*

The French Government is not prepared to contemplate a moratorium of a duration of more than two years. It even considers that this period should only be granted or upheld if Germany puts forth the indispensable

effort in agreement with the Reparation Commission to reorganize her finances and if she takes the necessary measures for the issue of loans designed: (1) as a contribution toward facilitating the equilibrium of her budget and the stabilization of the mark; (2) as a balance to begin, from the period of the moratorium, the redemption of her capital debt.

As regards the extent of the moratorium, the French Government considers it desirable to maintain:

(1.) The payment of the expenses of the armies of occupation as they were fixed by the agreement of March 11, 1922, of the expenses of the Interallied High Commission of the Rhineland Territories and of the naval and military commissions of control;

(2.) Cash payments subject to the conditions indicated below;

(3.) Deliveries in kind according to the conditions mentioned by the treaty and the agreements in force. The other obligations (duty to make compensation, restitution, &c.) which the treaties and conventions impose upon Germany will, moreover, be upheld subject to the conditions actually in force.

2. *Pledges.*

Since, however, the three years which have just elapsed prove that it is impossible to rely upon Germany to execute the engagements which she has undertaken, the French Government looks upon the seizure of pledges as indispensable, and considers that the realization of the securities mentioned below will not exceed Germany's capacity to pay and is not calculated to hamper the restoration of her finances.

These pledges will be taken:

(1.) With a view to assuring the execution of the conditions of the moratorium alike as regards the reorganization of German finance and as regards the limited payments contemplated during that period;

(2.) With a view to guaranteeing to the allied powers the prolongation and extension of these payments on the expiration of the moratorium if Germany has not by that period taken the steps necessary for the normal discharge of her debt.

If loans on a sufficiently important scale are contracted by Germany during the moratorium and placed at the disposal of the Reparation Commission to redeem the capital of the German debt, the project might be entertained of leaving at the disposal of the German Government the cash yielded by the pledges and either a part of the yield from the deliveries in kind or their equivalent corresponding with the amount of the loans.

But the French Government considers that all useful measures must be taken to assure the immediate productivity of the pledges, the seizure of

which it contemplates, and to secure the working of the organization to be created to the extent rendered necessary by the circumstances.

The program elaborated entails the seizure of certain definite pledges. The French Government, however, has drawn up this program in such a way as to avoid, as far as possible, any further military occupation excepting in the event of Germany failing strictly to conform with all the obligations which the program imposes on her, in which case the penalties mentioned in Chapter IV below will automatically come into force. The allied Governments will, as regards that contingency, assume toward one another a binding engagement either to apply these penalties by common action or to raise no objection to their isolated application by one of them.

The French Government is, moreover, persuaded that if its allies accept this program and collaborate with it in imposing it upon the German Government, its application could meet with no serious difficulty, and that any movement of troops upon unoccupied territories would be rendered superfluous.

Detailed explanations will be furnished respecting the following articles of the program, of which only the summary is set forth below:

(1.) *Pledges designed to insure deliveries in kind:*

(a.) *Coal.*—An interallied mission of control, composed of engineers, under a French president, and upon which voting powers will be distributed according to the ratio of the deliveries of coal due to the interested powers, will be sent to Essen and, with the collaboration of the German Government, invested with the powers necessary to supervise the proceeding of the Kohlensyndikat and to secure through the instrumentality of the chairman, by means of orders issued either to the latter or to the German Transport Service, the strict application of the program adopted by the Reparation Commission. The Interallied High Commission of the Rhineland Territories will be empowered to issue decrees within the Ruhr territory for the execution of the provisions adopted by this mission.

(b). *Timber.*—Germany will be notified that the allied Governments reserve the right to take measures necessary to realize additional quota from the state and communal forests in the occupied territories.

A mandate to that effect will be issued to the Interallied High Commission of the Rhineland Territories to secure, subject to its own instructions, the exploitation of the forests.

(c.) In the event of the deliveries in kind demanded of Germany (raw materials or building materials or materials for business purposes, nitrogen, &c.) not being carried out within the period laid down in the protocols containing the orders, requisitions may be carried out to the extent of the deficiency of the deliveries under the orders and subject to the control of

the Interallied High Commission of the Rhineland Territories. These requisitions may take place either upon the territories under military occupation or in the Ruhr.

(2.) *Pledges designed to secure concurrently cash payment and deliveries in kind:*

(a.) *A levy of foreign securities on the basis of German exports coming from territories actually occupied and from the basin of the Ruhr.*

It would be the aim of this levy to assure the Allies the means on the one hand of collecting considerable sums in cash, on the other of controlling, with an accuracy which the Guaranties Committee has not been able hitherto to attain in Berlin, the conditions governing the issue of licenses and, above all, the correctness of the payments which must be made by the exporters.

It might be realized through the intermediary of the commission of Bad Ems for the territories of the left bank and for the Ruhr Basin, either by the extension to that basin of the authority of the commission or by the creation of an analogous commission at Essen, to which the exporters, in accordance with a decree to be issued by the Interallied High Commission of the Rhineland Territories, would have to apply to secure their export licenses.

The licenses will be issued subject to the authority of the Interallied High Commission of the Rhineland Territories, which will fix the proportion of foreign securities which the exporters will have to pay into a bank designated by it in exchange for authorizations to export.

It will assure itself where necessary by an inspection of the movement of securities and by inquiries of individuals that the German exporters really are applying for their export licenses to the bodies above mentioned and not to similar offices working in nonoccupied territory.

Fraudulent evasions will entail a liability to fines or personal penalties to be pronounced in principle by the military tribunals, which would where necessary delegate their powers to the German tribunals.

If this method of control were set up by the Allies acting together it could work without further military occupation and without the establishment of a customs cordon in the east.

The total yield of the levies may be estimated as equivalent to about 400 million gold marks a year.

(b.) *Seizure of the Customs in the Territories actually occupied and of the Principal Custom-houses in the Ruhr.*

Notwithstanding the objections advanced, the French Government persists in the view that it would be desirable to re-establish the economic

régime set up by the London Conference in March 1921. However, in face of the opposition displayed by certain of its allies, the French Government in the event of pledges taken in common would be ready to accede to the following procedure:

The Interallied High Commission of the Rhineland Territories will receive the mandate to assure, subject to its orders, the collection of the customs dues on the western frontier of the occupied territories and in the customs areas of the occupied territories and in the Ruhr.

It will be empowered to fix the amount of the taxes on exports payable in securities standing at a fixed rate, the amount to be paid to it in paper marks.

A control will be organized, subject to the orders of the Interallied High Commission of the Rhineland Territories, under conditions similar to those mentioned in the preceding paragraph, to make certain that the dues payable on exports or imports arriving in the territories above mentioned have not been paid in evasion of the provisions adopted in the customs areas of territories unoccupied or not subject to allied control.

This method of control does not call for the establishment of a customs cordon in the real sense of the term on the east of the occupied territories and above all of the Ruhr Basin.

The value of the amounts collected may be estimated at about 200 millions of gold marks a year, of which 150 are derived from the occupied territories. If, for instance, 20 per cent. of the taxes on export were collected in securities standing at a fixed rate, the yield of the security ("gage") would be 20 millions of gold marks, plus, at the actual rate of exchange, 324 milliards of paper marks.

(e.) *Seizure of the Kohlensteuer in the Occupied Territories and in the Ruhr Basin.*

The German Government will be notified that the allied powers will issue a mandate to the Interallied High Commission of the Rhineland Territories to make levies credited to the Reparation Commission from the Kohlensteuer in the occupied territories and in the Ruhr Basin.

The payment of a fraction of the impost (30%, for instance) in foreign securities will be exacted from the mineowners. The mineowners will be warned that in the event of this condition not being fulfilled, the allied powers will reserve themselves the freedom to divert an equivalent amount of coal.

On the basis of the results reached in 1922 the annual output of the Ruhr and the occupied territories amounts to about 100 millions of tons.

On the basis of the actual value of the Ruhr coal the Kohlensteuer amounts to about 4 gold marks a ton. It should therefore yield the equivalent of 400 millions of gold marks, 120 being payable in securities

at fixed rates ("devises appréciées") and the balance in paper marks or at the actual rate, 500 milliards.

(d.) *Utilization of Paper Marks Yielded by the Customs and Kohlensteuer.*

The pledges seized would yield the allied powers the equivalent of 460 millions of gold marks, in paper marks (180 for the customs and 280 for the Kohlensteuer.)

Altogether it may be hoped that the net yield of the pledges contemplated, valued in gold marks, on the basis above indicated would reach the following amounts:

1. Full execution of the program of deliveries of coal of the Reparation Commission	360,000,000
2. Deliveries of timber	40,000,000
3. Deliveries of nitrogen	60,000,000
4. Levy of foreign securities upon exporters	400,000,000
5. Seizure of taxes on export (the amount collected in foreign securities)	20,000,000
6. Seizure of the Kohlensteuer (the amount collected in foreign securities)	120,000,000
General total	1,000,000,000

The execution of the program of restricted payments during the period of the moratorium would thus be guaranteed. The allied powers would be enabled, in the event of a prolonged default on the part of the Reich to increase the amount of the sums collected, notably by an extension of the Kohlensteuer and of the levies upon foreign securities, either upon the coal producers or on the score of taxes upon exports.

The pledges contemplated could be seized by the Allies acting in common by merely utilizing the methods of economic control without military intervention.

Finally the pledges selected would have the advantage, thanks to the method designed for the organization of their enforcement, of allowing the exertion of an energetic pressure upon the great industries, which have hitherto opposed the chief obstacles to the execution of the treaty of Versailles, which have facilitated the export of securities and of gold and which have derived considerable benefits from the actual situation of Germany.

IV.—Penalties.

Should the German Government not lend itself to the execution of the present program, should it in particular not take all the legislative and administrative measures judged necessary and prescribed either by the Reparation Commission, or the Interallied High Commission, or by the Interallied Mission of Engineers, to allow of the strict execution of the

program, such default would immediately and automatically bring into force the following penalties:

1. The military occupation of the districts of Essen and Bochum and of the whole part of the Ruhr Basin decided upon by Marshal Foch;
2. The establishment of a customs barrier on the east of all the occupied territories.

And that, without prejudice to the fact many times recorded by the French Government that every failure to execute the treaty of Versailles has already had and will in the future have as its result the postponement of the dates of evacuation of the occupied territories.

5. Plan for General Settlement of Reparation and European Interallied Debts Communicated by the British Delegation to the Interallied Conference, Paris, January 2, 1923.

Summary.[1]

Reparation.

The following plan has been prepared as a complete and final settlement of reparation and European interallied debt.

The German obligations under the peace treaty are fixed by the plan at:

Nil for four years (apart from certain deliveries in kind for which credit is to be given against future payments).

2 milliard gold marks (*£100 million*) *per annum* for the next four years.

2½ milliard gold marks (*£125 million*) *per annum* for the following two years.

After ten years 3⅓ milliards (£166 million) or such smaller sum (not less than 2½ milliards) as may be fixed by an impartial tribunal.

If the supervising authority provided for below decides unanimously that the state of German finances before the end of the initial period of four years is such that cash payments for reparation can be made, it will have power to antedate the commencement of the annual payment of 2 milliards by such period not exceeding two years as it may see fit and to make such adjustments in respect of future payments as it may deem to be equitable so as to secure that the total liability shall not be increased.

The obligations take the form of 5% bonds redeemable at call by the German Government—at the outset on easy terms, gradually rising to par at the end of 32 years.

[1] The formal plan, which goes deeply into technical details, is omitted because the summary gives an adequate account of the proposal and is more comparable with the informal plan put forward by France. *Interallied Conferences*, p. 112.

The bonds are divided into two series, Series I representing the fixed payment (rising to 2½ milliards per annum), Series II representing the additional payments over and above 2½ milliards per annum from the eleventh year onward.

There is no sinking fund, but redemption, more especially in the earlier years, is permitted upon such liberal terms that the saving in annual interest on the bonds redeemed will, if German credit is re-established, be sufficient to cover both interest and sinking fund on German loans raised in the market for redemption purposes.

This arrangement gives Germany a strong inducement to raise such loans as soon as possible, since she will thereby convert a perpetual into a terminable obligation without increase of the annual charge and also substitute a normal foreign debt to private bondholders for her present obligations to foreign Governments.

The bonds provided for in the scheme are not intended either to be issued to the public or placed on the market. They are to serve merely as accounting machinery. The "mobilization" of the German reparation debt is to be effected by loans raised by Germany from the public, the proceeds of which would be applied to the redemption of the original bonds.

In order to give Germany a real chance of restoring budget equilibrium and stabilizing the mark, it is absolutely essential that she should be given complete freedom from payments in foreign currencies during the initial period, and that deliveries in kind (except in so far as the receiving countries may be willing to pay cash for them) should be reduced to a minimum.

It will, however, be necessary that the deliveries on reparation account of coke to France, coal to Italy, and possibly dye-stuffs should be continued, though upon a reduced scale, even during this initial period. The precise quantities can only be settled by negotiation.

In the event of the plan proving successful, it is highly probable, however, that Germany would herself seek to increase her deliveries in kind in the early years to a maximum, in view of the liberal terms on which the value is applied to the cancellation of her debt.

The plan would be offered to Germany on condition that she undertakes

1. To stabilize the mark in accordance with the recommendations contained in the majority report of the foreign experts consulted by the German Government in November last, and to restore budget equilibrium with limits of time to be prescribed (say six months for the stabilization and two years for the budget reform).
2. To accept such financial supervision as may be deemed by the allied powers to be necessary to see to the punctual carrying out of these reforms (see Schedule "B").

3. To submit, in the event of her failing to satisfy the supervising authority that condition 1 is being observed or failing to discharge her obligations as now revised, to any measure which the allied powers, upon a report of such failure from the supervising authority, may unanimously decide to be necessary, including forcible seizure of German revenues and assets and military occupation of German territories outside the existing zone of occupation.

Inter-Allied Debts.

The following proposals are put forward for dealing with interallied debts upon the understanding that the above reparation plan is accepted, and all proposals for the taking of pledges ("gages") and application of sanctions (otherwise than as provided for in the above plan) are abandoned:

1. Gold deposits now held by Great Britain as security for interallied debts are to be applied toward the reduction of these debts.
2. The 1st Series German Bonds to be received by France in respect of the Belgian war debt, and 1½ milliards of the 1st Series Bonds to be received by Italy in respect of her share of reparation are to be transferred to Great Britain.
3. The balance of the net debts owing as between European Allies in respect of advances[1] for the purpose of carrying on the war is to be entirely written off, all counter-claims being abandoned, on condition that the debtors transfer their interests in the 2nd Series (Contingent) Bonds to a pool for distribution to those powers which are indebted to the United States of America in proportion to their respective American debts.

The governing principles of the plan are

1. To fix a minimum German liability which is within recent estimates which have been made by financial experts of German capacity, and a supplementary liability which is *prima facie* not unduly onerous, but which can be reduced or cancelled by an impartial tribunal if it should prove in the event to be excessive.
2. To substitute for the present fixed obligations of the European Allies to Great Britain arrangements under which all except a small percentage (which would be accepted in the form of a transfer of German obligations) would be remitted, but under which the contingent German payments in excess of the fixed minimum would be available for discharging European debts to America generally.
3. To give attractive terms to Germany for the early redemption of the annual payments by anticipation.

[1] The *status quo* would not be interfered with as regards interallied *post-war* indebtedness.

The primary obligation of Germany is put into the form of 50 milliard gold mark 32-year bonds bearing no interest for four years, 4% for the next four and 5% thereafter. No provision is proposed for a sinking fund, but the bonds can be redeemed on terms which, if German credit recovers, will enable the interest *and sinking fund* on the loans required for redemption to be met out of the resultant saving on the interest on the bonds.

Germany is thus given a double inducement to borrow from the public to redeem the original bonds.[1]

(*a*). She frees herself from her direct liability to the allied Governments.

(*b*.) She substitutes without additional cost a terminable for a perpetual liability.

The merits claimed for the plan are that its adoption will make the restoration of German credit possible and lead to the recovery of very substantial sums for reparation, while persistence in the policy of attempting to enforce impossible claims will end in the destruction of the *créance* altogether.

The present value of the primary obligation under the plan can not be precisely estimated owing to the redemption options.

If the adoption of the plan led to a rapid revival of German credit and Germany were able, by raising loans, to pay off the whole of the fixed annuity in the first few years, the present value might not be more, and might possibly be even less, than 30 milliards.

But if this happened the Allies would have actually received this 30 milliards and Germany would undoubtedly be in a position to pay for the service of the 2nd Series of bonds when they fall to be created ten years hence, and redeem that series also very rapidly. In that event this 2nd Series would be worth at least its present value on the 6¼ per cent. table—7.4 milliards—so that on this supposition the whole indemnity would have been collected in twelve or fifteen years (mainly in the first ten) and a present value of over 37 milliards realized.

On the worst assumption that no German loans become possible either now or in the future, that the 2nd Series of bonds has to be cancelled altogether and Germany merely pays the interest on the 1st Series as a perpetual annuity beginning four years hence at 2 milliards and rising four years later at 2½ milliards, the present value on the 5 per cent. table is 39½ milliards.

The burden on Germany (which will be reduced if she raises redemption loans on favorable terms) covers all financial liabilities under the treaty.

[1] These are not intended for issue to the public, but merely as security for the annual payments and as counters for purpose of accounting.

II. GERMANY'S PROPOSALS AND ALLIED DISAGREEMENT

On April 20, 1923, Lord Curzon, British secretary for foreign affairs, raised the query in Parliament why Germany did not make an offer to settle the reparation *impasse*, which was then overshadowed by the Ruhr occupation. The German Government responded to this invitation in a note of May 2, addressed to the Governments, not to the Reparation Commission. This note which was premised on Ruhr evacuation and was assumed to involve an offer of 30,000,000,000 gold marks present value, met a varied reception. France and Belgium replied to it with categorical, but not identical, negatives on May 6. The British foreign minister criticized this separate action on May 8, and on May 13 forwarded his own reply, which, though negative, nevertheless advised Germany as to why the proposal was unsatisfactory and added suggestions as to the character of a satisfactory proposal.

On June 5 a new proposal was delivered in Paris and Brussels and on June 7 in London. The new note showed evident signs of trying to meet the objections. No responses were ever made to it. Instead, it engendered an argument between the British on the one side and France on the other, with Belgium leaning to the French arguments but maintaining a less definite opposition to the London attitude of securing an economic settlement.

The French ambassador at London on June 12 presented at the Foreign Office a "statement of the principles on which the French Government declare they will be guided in entering upon a discussion of the German proposals." On the 13th Marquess Curzon addressed to the French ambassador a note which has been called a questionnaire, and which raised searching questions as to the purposes and methods of the French Government. Belgium replied to this on July 3 and France on July 6 neither giving evidence of agreement with the British point of view. Accordingly, on July 20 Marquess Curzon addressed a note to France, Italy, Belgium and Japan in which the situation was discussed at length and which covered a draft identic reply to

the German note of June 5–7. The French reply of July 30 was not responsive. The Belgian was more so. Italy was "actuated by the firm desire to contribute in the most satisfactory manner toward making the action of the British Government achieve a speedy and effective general understanding." Japan foreshadowed an agreement in principle.

The correspondence reverted to a British-French argument again, with Belgium participating. The British note of August 11 received a pungent reply from Premier Poincaré on August 20 which reviewed reparation history and interallied debts and concluded "that France must first, in order to be able to discharge her debts, have recovered her contributive power, have repaired her disasters and have placed herself in a position to meet German competition on equal terms." Throughout the whole controversy French insistence on the cessation of German passive resistance in the Ruhr as a *sine qua non* to discussion so colored the situation that the British felt that, having spoken, they could not go further in fruitless interchange of notes.

The salient documents, which resulted in leaving the German proposal of June 5–7, unanswered are appended.

1. German Memorandum of June 5–7, 1923.[1]

1. After full and careful consideration, the German Government have stated their sincere belief as to Germany's capacity to make reparation payments. They would not be acting fairly, and they would not bring the problem any nearer its real solution if, for the sake of a temporary alleviation of the political difficulties of the moment, they were to promise

[1] "Correspondence with the Allied Governments respecting Reparation Payments by Germany," p. 2. (Parl. Pap. 1923, Miscellaneous No. 5. Cmd. 1943). The English text is translated from the German.

The memorandum was covered by the following note from the German ambassador at London, Herr Sthamer, to Marquess Curzon:

"In accordance with instructions, I have the honor to communicate to you the following:

"The German Government have received from the allied Governments varying answers to their note of the 2nd May. In order to avoid anything which might render the continuation of the exchange of views more difficult, the German Government are of opinion that they should limit themselves in their answer to the points which are common to the replies of the allied Governments. Proceeding in accordance with this consideration, my Government have instructed me to communicate the inclosed memorandum to the British Government.

"I would add that a similar communication is being addressed to the Governments of the United States of America, France, Italy, Belgium and Japan."

more than, in their judgment, the German people can with the utmost effort perform.

Nevertheless, the question of Germany's capacity is one of fact on which different opinions can be held, and the German Government admit the great difficulty of arriving at any secure estimate in present conditions. For this reason they have offered to accept the decision of an impartial international tribunal as to the amount and method of payment. Germany can give no stronger proof than this of her determination to discharge reparation.

The German Government are also ready to supply all information necessary to form a reliable judgment on Germany's capacity to pay. They will, if it is wished, throw open to inspection all their financial records, and furnish any details that may be desired concerning the resources of German industry and business.

2. The German Government had proposed the flotation of big loans in order that large capital sums might accrue at the earliest possible moment to those powers entitled to reparation. Should loans on a great scale prove impracticable for a time, they are ready to substitute a scheme of annuities.

3. Since the allied Governments attach importance to Germany's furnishing forthwith precise indications as to the kind and mode of sureties which she contemplates offering, the German Government propose the following guaranties for the carrying into effect of the definitive reparation plan:

(*a.*) The Federal railway system, with all its appurtenances, will be detached from the other state property and transformed into a separate fund, the accounts of which would be independent of the general financial administration and under its own control; and obligations in gold will be issued up to an amount of 10,000,000,000 gold marks, with a direct first charge on the assets of this administration and carrying interest at 5% as from the 1st July, 1927, thus securing an annual payment of 500,000,000 gold marks.

(*b.*) To secure a further annual payment of 500,000,000 gold marks as from the 1st July, 1927, the German Government will at once subject the entire business, industry, banking, trade, traffic and agriculture of the country to a guaranty in the form of a first mortgage of 10,000,000,000 gold marks on real estate, whether industrial, municipal, agricultural or forest. The annual payment of 500,000,000 gold marks will be levied either indirectly and included in a general tax imposed also on other property, or directly on the objects charged.

(*c.*) In addition, the German Government will pledge as security for the yearly payments the customs duties on luxuries, the excise

duties on tobacco, beer, wine and sugar, and the receipts of the spirits monopoly. The gross yield of these customs and excise receipts, which in the years preceding the war averaged about 800,000,000 M., has now very considerably fallen on account of loss of territory and population and of the reduced consumption. With the recovery of the economic activity of Germany it will, however, automatically increase.

4. In conclusion, the German Government feel that they must lay emphasis on the following:

In a matter so vast and complicated real progress can not be made by the exchange of written documents, but can only be achieved by word of mouth at the conference table. Germany's capacity to pay depends on the character of the settlement as a whole. The method of payment can only be arranged in direct consultation with those who are to receive the payment. The guaranties can only be worked out in detail with the collaboration of those whom they are intended to serve. For the solution of all these questions oral discussion is essential.

Germany acknowledges her liability to make reparation. The German Government repeat their request that a conference be summoned to agree upon how they may best discharge this obligation.

BERLIN, June 7, 1923.

2. FRENCH PRINCIPLES FOR DISCUSSION OF GERMAN PROPOSALS.[1]

(Summarized in British note of June 13, 1923.)

(i.) Passive resistance having ceased, the occupation of the Ruhr would continue, but under altogether different conditions, and with the co-operation of German organizations.

(ii.) France can sacrifice no part of her share of the A and B Bonds, but would agree to give up a portion of C Bonds, which could be employed for the payment of the interallied debts.

(iii.) The French Government recognize that Germany needs a certain time for balancing her budget; but, having lost no part of her riches, Germany should be able to hand over to the Allies a certain part of such of her resources as can be immediately realized, viz:

(1.) The railways on the left bank of the Rhine, which could be handed over to a company, in which France, Belgium, Great Britain, and even the Rhineland would hold shares.

(2.) Certain coal-mines in the Ruhr, appropriated by the German Reich, which might be handed over under similar conditions to an interallied company.

[1]*Correspondence*, p. 4.

(3.) Deliveries in kind, to be specified.

(4.) The yield of the customs duties, which might at once be levied in gold or gold values and placed at the disposal of the Allies.

(5.) Lastly, a certain proportion of the foreign exchange resulting from the sales of certain important exports, which would, in conformity with the principles accepted by Germany herself, be handed over to the Allies, the levy of the 26% being adjusted to Germany's economic requirements.

(iv.) In the occupied territories it would be for the Allies themselves to collect the ceded revenues.

3. Draft Identic Reply to the German Government.[1]

(Inclosure in British note to France, Italy, Belgium and Japan, July 20, 1923.)

On May 2 the German Government addressed an identic note to the Governments of the United States of America, Belgium, France, Great Britain, Italy, and Japan, containing certain proposals for a settlement of the question of reparations.

To this note separate replies were returned by the French and Belgian Governments, acting in unison, and by the Italian, British, and Japanese Governments acting separately. These replies concurred, however, in regarding the German proposals as inacceptable, the main criticism directed against them being that neither the total amounts suggested as payable for reparation, nor the mode of payment, nor the guarantees offered, were at all adequate, while settlement of any kind was made contingent on the evacuation of the Ruhr, pending which passive resistance by the Germans was not to be renounced.

The unfavorable reception accorded to these proposals having led the German Government to reconsider their attitude, that Government on June 7 addressed a second communication to the same powers.

In this memorandum, the German Government, affirming once again their determination to discharge their reparation debt, repeated a proposal which they had before made, to refer to an impartial international tribunal the question both of the amount and the methods of payment undertook to furnish such a body with all possible information and assistance in conducting the investigation, and promised to accept the decision at which it might arrive. Further, the German Government proposed certain guaranties or sureties for the regular payment of the liabilities thus fixed, involving, however, the grant of a moratorium of four years from the present date.

Finally, the German Government suggested a conference at which Germany might be assisted by oral discussion in arriving at a solution of all these questions.

[1] *Correspondence*, p. 22.

The German note did not, on this occasion, contain any reference to the subject of passive resistance, not, it is presumed, from any failure to appreciate its peculiar importance, but because that topic had not been mentioned in all of the replies of the allied Governments to which the note was intended as an answer.

The allied Governments, anxious to terminate the phase equally of paper controversy and of international complication, will now give their views upon each of these matters.

In the treaty of Versailles it was recognized by the Allied and Associated Governments that, while affirming the full responsibility of Germany for all the loss and damage which they had suffered at her hands during the war, they could not, in view of her diminished resources, expect to receive from her complete reparation for all such loss and damage. In other words, the necessity was admitted, even at that date, of adjusting the liability of Germany to her capacity to pay.

In May, 1921, the amount of reparation was fixed by the Reparation Commission at 132 milliards of gold marks. No power was given by the treaty to cancel any part of that obligation, except with the specific authority of the several Governments represented on the commission. If, therefore, the contention is now put forward that, owing to the altered circumstances of to-day, the figure of 1921 is too high and calls for reduction, it can only be by action within the framework of the treaty that such reduction can properly be made; and it is only from this point of view that the allied powers are free to consider the first request of the German Government in the note now under reply, namely, the request for an examination by an impartial international tribunal of Germany's present capacity for payment.

Experts are Suggested

The allied Governments, while unable to accede to this request in the form in which it was proposed, are far from thinking that they might not be assisted in the task devolved upon them by the treaty by the labors of competent and impartial experts; and provided that nothing is done in this respect that is inconsistent with the treaty stipulations, they are disposed to think that positive advantage might result from such an examination. It would bring the allegations of diminished capacity to the test of fact; it would reveal the actual position at the present moment; and it would remove all excuses for evasion.

The allied Governments take note of the statement by the German Government that they would welcome such an inquiry, and of their pledge to abide by the result.

If a binding arrangement were entered into, concerning the discharge

of the entire liability, as thus determined, and as to the guaranties or sureties to be taken for the regular and complete payment of the total debt, the whole problem would assume a different aspect.

As to the guaranties or sureties themselves, the allied Governments, while appreciating the effort of the German Government to advance beyond the vague indications of the earlier note of May 2, must guard themselves from accepting these new proposals as adequately, or in the best possible way, meeting the actual requirements of the situation. Their economic value must largely depend upon factors of which no mention is made in the German note, such as the stabilization of the mark and the balancing of the German budget. A careful examination of these, or other, supplementary guaranties will be an inseparable feature of the inquiry which the allied Governments are prepared within the limits of the treaty to initiate.

It must be clear, however, that no guaranties for the punctual discharge of accepted liabilities will suffice, unless provision is at the same time made for some form of international control of German financial administration. This is one of the subjects to which it will be necessary to invite the serious attention of the German Government, and without a settlement of which no final solution can be obtained.

When the German Government ask for oral discussion of all these matters, it may be remembered that, under the treaty, the Reparation Commission, while authorized from time to time to consider the resources and capacity of Germany, is also under an obligation "to give to the German Government an opportunity to be heard." This will allow for free consultation with the latter, and will enable it to make a full presentation of the German case.

Such is the reply of the allied Governments to the main propositions of the German note. There remains, however, one important consideration which is the antecedent condition to a willingness on the part of the Allies to reopen the questions to which reference has been made. The occupation of the Ruhr valley by the armed forces of certain of the Allies has been followed by measures deliberately taken by the German Government to impede this policy and to delay the payment of reparations. These measures may be summed up in the familiar phrase "passive resistance." If the German Government now desire a resumption of inquiry, they will, in the opinion of the allied Governments, be well advised to withdraw without further delay the ordinances and decrees which have organized and fomented this form of resistance, and openly and unequivocally to disavow the acts of violence and sabotage which have in some cases accompanied it.

Were this action to be taken without delay, not only would it be regarded as an evidence of that good faith which the German Government have

once again avowed, but it would involve a reconsideration by the occupying powers of the conditions of their occupation and a gradual return to the normal features of industrial life in the Ruhr. Such a reversion would possess the additional advantage that, by re-establishing the productive activity of that region, it would enable the German Government more speedily and more effectively to discharge their reparation debt.

In making this reply to the German note, the allied Governments have clearly demonstrated their earnest desire for the cessation of conflict and the pacification of Europe. In return they feel that they have the right to invite the co-operation of the German Government in the execution of this policy; and they have indicated with as much precision as is possible at the present stage the reciprocal steps by which each party can effectively contribute to the desired result.

4. French Observations on British Draft.[1]

(Excerpt from note of Count de Saint-Aulaire to the Marquess Curzon of Kedleston, July 30, 1923.)

The British Government have summarized under six headings the ends which they have in view. Our observations on these points may be summed up as follows:

1. The German Government to undertake to abandon the policy of passive resistance. This, in our opinion, is the primordial question dominating all others and one which must receive priority of settlement.
2. There can be no ambiguity with regard to the progressive evacuation of the Ruhr; it will be carried out according as payments are made. Cessation of passive resistance will itself lead to the resumption of economic life in the Ruhr. The High Command will take every step compatible with the maintenance of the pledge and the security of the troops to render the occupation as light as possible. But France can not enter either directly or indirectly into negotiations with Germany on these last points before all forms of resistance have ceased.

3 and 4. Conference of impartial experts. The French Government can only refer to the statements already made in this note on the subject: the Reparation Commission is a tribunal set up by the treaty through which it derives its authority; the Reparation Commission should only be guided by justice, equity, and good faith. What other body would have such an origin, such powers and such rights? What other body could give greater guaranties of impartiality, and why should the German Government accept its conclusions

[1] *Correspondence*, p. 36–38.

while it refuses to recognize those of the Reparation Commission? The French Government would require to be enlightened on all these points.

5. The British Government desire that interallied discussions should take place in order to elaborate a comprehensive plan of a general and final financial settlement. Has not this settlement been made? Has not the Reparation Commission full power to apply this settlement, to modify it, and to extend or shorten its execution? Would it not be contrary to the treaty to go back on the very principle of the settlement and on the fixation of the amount? In any case, we should like to know what the British Government understands by a general and final settlement? Does this include the question of interallied debts?
6. Finally, as regards the sixth point, the French and Belgian Governments can only repeat that they will not evacuate the Ruhr except against effective payments by Germany and in proportion as these payments are made.

In the last paragraph of their letter, the British Government allude to the question of security; we shall always be pleased to discuss this question with them, but it has no bearing on the occupation of the Ruhr, and it seems preferable that these two problems should be considered separately.

5. British Note to France.[1]

The Marquess Curzon of Kedleston to Count de Saint-Aulaire and also to Baron Moncheur.

Foreign Office
August 11, 1923.

Your Excellency,

1. The most sincere disappointment has been caused to His Majesty's Government by the replies which they have received under date of July 30 from the French and Belgian Governments to their identic notes of the 20th ultimo. With those notes was submitted the draft of a joint allied answer which His Majesty's Government proposed should be sent to the German memorandum of June 7. The proposal represented an earnest effort on the part of His Majesty's Government, while showing the utmost regard for the known views of the French and Belgian Governments, to indicate a practical way of arriving as promptly as possible at a final settlement of the question of German reparations.

2. His Majesty's Government had understood that there were in the opinion of the French and Belgian Governments two main obstacles standing in the way of any fresh move in seeking such settlement: (1)

[1] *Correspondence*, p. 48.

the necessity of scrupulously respecting the rights of the Reparation Commission under the treaty of Versailles as regards the fixing of the German debt and determining the modes of payment; and (2) the attitude of the German Government in encouraging passive resistance to the Franco-Belgian occupation and exploitation of the Ruhr.

3. With both these questions, accordingly, His Majesty's Government proposed, in their suggested reply to the German memorandum, to deal in a manner which they confidently expected would commend itself to their Allies. How completely they have been disappointed in this expectation is made manifest by the contents of the notes in which the French and Belgian Governments have replied to their proposals.

4. His Majesty's Government acknowledge with much appreciation the courteous tone of those notes. If they now proceed to comment upon them, they trust that their remarks will be received in the friendly spirit in which they are offered.

5. A reply seems to be all the more necessary, since, in the desire to avoid controversy at a critical phase, His Majesty's Government refrained from sending any rejoinder to the observations which the French and Belgian Governments communicated to them over a month ago in reply to the so-called questionnaire which I had addressed to the two Governments. Sooner than embark upon any controversy with their Allies, His Majesty's Government preferred at that time to submit a definite plan of action, under which they proposed that the suggested inquiry into Germany's capacity to pay should be conducted within the framework of the treaty of Versailles, and that the German Government should be called upon to withdraw the orders and measures by which they have enjoined passive resistance. Furthermore, in order to comply with the declared objection of their French and Belgian Allies to any specific bargain being made on this point with the German Government, the British proposals were restricted to an intimation that if the German Government were to abandon passive resistance without delay, not only would this be regarded as an evidence of good faith, but it would involve a reconsideration by the occupying powers of the conditions of their occupation and a gradual return to the normal features of industrial life in the Ruhr.

6. It is difficult to think in what way greater consideration could have been shown to the Franco-Belgian point of view.

Finds Suggestions not Welcomed.

7. The reception, however, that has been accorded to these proposals by the French and Belgian Governments in their respective notes of July 30, leaves His Majesty's Government, notwithstanding the terms

of courtesy employed, under the painful impression that neither are their suggestions welcomed by their Allies, nor is their offered co-operation held to merit consideration except on condition that no departure be made in any one particular from whatever France and Belgium declare to be their overriding views and decisions.

8. It is true that the Belgian reply appears at first sight to be less. uncompromising than the French note. But on closer examination it is seen that the attitude of the two Governments is for all practical purposes identical, and that, though the Belgian Government appear to be especially anxious for the continuance of friendly conversations, it is only upon condition that the substance of the Belgian claims is conceded in advance. Accordingly, His Majesty's Government ask leave to deal with the two replies in a single answer.

9. The first point that has struck His Majesty's Government is that in neither is there any allusion whatsoever to the terms of the draft reply to the German memorandum which His Majesty's Government had proposed. The Belgian Government, indeed, still remain in favor of the principle of a joint reply, but the French Government pass the proposal over in complete silence. And yet this was the main object to which, in their desire for the continued maintenance of allied unity, His Majesty's Government had devoted their efforts. The omission is hardly compensated by a series of argumentative passages, inquiries on points of detail, and offers of further discussions and conversations, holding out a prospect of an indefinitely spun-out controversy, while fundamental principles are only mentioned in order to declare that they do not admit of discussion.

10. It may perhaps be said that the Belgian reply does not reject, as categorically as does the French, the proposal for a fresh investigation of Germany's capacity to pay. But the consent of the Belgian Government to such an inquiry is made conditional upon obtaining for Belgium and for France pecuniary advantages of a far-reaching kind at the expense of their Allies, and notably of Great Britain. Such a suggestion appears to His Majesty's Government to reveal a palpable misconception of the situation.

11. It will not be contested that there can be no use in demanding from Germany more than she is capable of paying. What is the maximum she can pay, is a question of supreme importance to all her creditors. It is a question of establishing a fact, on the ascertainment of which any practical arrangements or combinations for obtaining payment to the fullest extent possible must be based. The British Government accordingly proposed to take steps to ascertain this important fact. Belgium replies that she will not consent unless a corresponding advantage is obtained by herself and by France. His Majesty's Government could not willingly enter into any such transaction.

12. While the Belgian note does not indicate any precise claim, official and semi-official pronouncements by and on behalf of French and Belgian ministers have made it clear that the French Government wish to insist on a minimum payment to them of 26 milliard gold marks over and above the amount required to meet their debts owing to this country and to the United States, and the Belgian Government on a minimum payment of 5 milliard gold marks, for which, or for part of which, they now ask for further priority.

13. If the estimate made on a 5% basis by M. Bokanowski, the *rapporteur* of the French Budget, which put the present value of the annuities under the Schedule of Payments at 65 milliard gold marks, may be accepted as an approximately correct basis of calculation, the share of France and Belgium as fixed by the percentages established under the Spa agreement (52 and 8% respectively)[1] would not exceed 34 milliards for France and 5.2 milliards for Belgium, even if Germany were in a position to pay the total figures of the schedule. But Belgium has already, under the agreement which entitles her to priority payments of 2½ milliard gold francs (£100 million), received approximately 1½ milliard gold marks (£73 million sterling), a sum far exceeding the receipts of any other power. Though this priority was given when the total sums expected from Germany were immensely larger than anything that is now likely to be received, it has not been reduced proportionately, and it has therefore operated to give Belgium an increasingly disproportionate share of actual receipts up to date. In addition, she has been entirely relieved of her war debts to the Allies, amounting to nearly £300 million sterling.

14. France, on the other hand, when counting on receiving 34 milliard gold marks from Germany, would have to balance this amount against her debt to this country, representing about 12 milliard gold marks, and her debt to the United States, amounting at least to the equivalent of 15 milliard gold marks, or, together, 27 milliards, which, being set off against the 34 milliards to be obtained from Germany, would leave France with a balance of 7 milliards. When, therefore, it is now suggested that she ought to receive 26 milliards net, her total debts to Great Britain and the United States being cancelled, it will be seen that the demand is for an amount between three and four times larger than would, on balance, fall to her share under the existing agreements. It is difficult to see on what grounds a failure of Germany to meet her obligations, by which Great Britain is proportionately damnified equally with her Allies, can be held to justify a claim by France to be placed, at the expense of her Allies, in a far more favorable position than she would have occupied under the Schedule of Payments itself.

15. The Belgium proposal to grant a special priority for the restoration

[1] For the terms of the agreement, see Part II, Vol. V, p. 55.

of devastated areas seems to rest on a somewhat artificial distinction as regards damages inflicted by the enemy in the late war. It is a suggestion not merely that priority should be conceded to material damages over the cost of war pensions, but that one particular type of material damage, namely, damage by land, should be selected for priority, to the exclusion of other forms of material damage. No justification for such a proposal can be found in the armistice terms or in the peace treaty; nor is it easy to conceive what argument can be adduced to support it. Sunk ships and cargoes rotting at the bottom of the sea may not shock the eye like the ruined villages of France and Belgium. But they are equally material damage caused by German aggression, and represent equally heavy losses of national wealth. Great Britain's proportion of reparations would not in fact be seriously altered as a result of priority conceded to material damages. Nevertheless, His Majesty's Government would not be in favor of priority even on that basis, if only for the reason that certain other Allies would be gravely and adversely affected.

Question of Priority

16. In practice the suggested priority would be equivalent to an alteration in favor of France and Belgium of the percentages of division fixed by the Spa agreement. For it is clear that if Belgian and French claims in respect of their devastated regions are to be met in full before the claims of the other Allies are considered, and if, at the same time, the total sums recoverable from Germany are diminished, the loss represented by such diminution must inevitably fall on those not enjoying the privilege of priority.

17. His Majesty's Government can not admit that there is any ground whatever for revising the Spa percentages. The principle of a percentage division is not affected by a change in the total to which the percentages apply. His Majesty's Government can not leave out of account the position of their own country. Apart from the extensive material damages suffered by Great Britain, His Majesty's Government are now involved in heavy payments to meet unemployment, in respect of which they have been compelled to spend over 400,000,000*l.* since the armistice. They alone, among the Allies, are paying interest on debts incurred abroad during the war, representing a capital sum due to the United States Government of 1,000,000,000*l.* at the present rate of exchange. They alone have been deprived, in the allied interest, of foreign securities estimated at from 700,000,000*l.* to 800,000,000*l.*, which would otherwise substantially assist in the payment of the British debt in America. Notwithstanding these gigantic burdens, Great Britain made an offer at the Paris conference of January last to forego her rights to reimbursement

of her damages, and expressed her readiness, by reducing the debts of the Allies, to treat her share of German reparations as if it were a repayment by her Allies of their debts due to her. It would be inequitable, and it is impossible, to ask the British taxpayer, already much more heavily burdened than his French and Belgian allies, to make further sacrifices by modifying the Spa percentages for the benefit of France and Belgium.

18. While the Belgian Government attach to their consent to an investigation by impartial experts of Germany's capacity to pay, a condition which renders such consent of little value, the French Government reject the plan altogether, and appear to justify their refusal by putting a series of questions which might lead to an indefinitely protracted discussion at a time when prompt decision is of essential importance. As, however, M. Poincaré has asked for answers on the several points which he has raised, they may be briefly given.

19. Astonishment is expressed that anyone should question the justice of the Reparation Commission's decision in fixing the total amount payable by Germany at 132 milliards of gold marks (6,600,000,000*l.*), and M. Poincaré sees no reason why "an estimate" made to-day by experts, whoever they may be, should be "more exact than that made in 1921." It is not clear to what estimate of 1921 reference is made. The Reparation Commission's finding of 132 milliards of gold marks was a simple estimate of the amount of the damages for which compensation was claimable under the treaty, without any regard to the question of Germany's capacity to pay them. It is true that the Schedule of Payments subsequently adopted, while purporting to provide for the payment of the full amount of the damages, in fact granted substantial concessions by extending the period of payment beyond that laid down in the treaty, and by waiving the payment of interest for a long period in respect of a large part of the debt. These concessions represented, even in the opinion of the *rapporteur* of the French budget, a virtual reduction by approximately one-half of the sum of 132 milliards, and the fact that they were approved by the allied prime ministers in drafting the Schedule of Payments (subsequently accepted by the Reparation Commission) effectively answers the contention that the sum, as originally fixed, was not considered too high by anybody. At the same time, it can not be said that the concessions were the outcome of anything that could be described as an expert inquiry into Germany's capacity to pay.

20. The French Government are quite right in declaring that the duty of adjusting the Schedule of Payments to that capacity in accordance with art. 234 of the treaty is one which still remains to be discharged.

21. They say that during the Peace Conference the American expert estimated Germany's capacity to pay at 120 milliard gold marks. His

Majesty's Government have not been able to trace in their records any American expert estimate of 120 milliards, though they have found one of 60 milliards and another of 240 milliards. There was also a French estimate of 800 milliards, and a British estimate of 480 milliards. The truth, of course, is that at that time there was no experience of attempts to establish and enforce interstate obligations of such magnitude, to which experts could look for guidance. It is precisely because such experience has become available during the last five years that a fresh inquiry is urgently called for.

22. The duty of making the ultimate decision rests in part on the Reparation Commission, and in part on the allied Governments, seeing that, if circumstances necessitate a cancellation of any part of the capital debt, the specific authority of the several Governments represented on the Commission is required. It is a duty which must, in terms of the treaty, be performed with sole reference to the resources and capacity of Germany. The Governments represented on the commission, in deciding whether or not to authorize the cancellation of a part of the German debt, are in the position of trustees, since the interests affected are not only their own, but also those of the Governments not represented on the commission—a consideration which His Majesty's Government venture to think the French Government must have overlooked when stating that "France will never consent to such cancellation except in the proportion in which her own war debts may be cancelled."

23. An inquiry, therefore, by impartial experts into German capacity, held to assist the Reparation Commission, and (should a cancellation of a part of the debt be regarded as necessary) the allied Governments, to carry out their duties under that article, clearly can not be held to violate any principle expressed or implied in the treaty.

The Suggested Expert Inquiry.

24. Both the French and the Belgian notes dwell on the special qualifications of the Reparation Commission to carry out itself any necessary inquiries. This is a claim which can not be sustained without serious qualification. In the absence of an American representative (as originally contemplated), France and Belgium are in a position, with the aid of the casting vote of the French chairman, to carry any resolution over the heads of the British and Italian representatives, and it is notorious that in these circumstances the commission has become in practice an instrument of Franco-Belgian policy alone.

25. The French Government ask how it is proposed that the impartial expert commission should be constituted. His Majesty's Government consider that the more comprehensive its constitution, the greater will

be the value of its findings. They would willingly see upon it nominees, not only of the powers entitled to reparation, but of the United States of America, of powers which took no part in the late war, and, it would seem desirable, of Germany herself. If, however, the French Government would prefer any other form of constitution, His Majesty's Government would be happy to consider it.

26. As regards its relation to the Reparation Commission and to the allied Governments, while for their own part His Majesty's Government would be entirely willing to enter into an agreement by which the several Governments would bind themselves in advance to recommend to the Reparation Commission the acceptance of the findings of the body of experts, they would, if the French and Belgian Governments are not prepared to go so far, be content that the functions of the experts should be advisory only.

27. Both the French and Belgian notes challenge the British contention that it is in the best interest of the Allies that whatever figure be finally decided upon as representing Germany's total liabilities, it should be accepted by the German Government as just and reasonable. They point to the fact that the German Government have, in the past, repeatedly failed to act up to their undertakings.

28. His Majesty's Government remain of opinion that an undertaking freely entered into, because acknowledged to be just and reasonable, stands, in practice, on a different footing, and offers better prospects of faithful execution, than an engagement subscribed under the compulsion of an ultimatum, and protested against at the very moment of signature as beyond the signatory's capacity to make good. The Reparation Commission itself, as well as the principal allied Governments, has had, on occasion, to recognize that the German Government was not in a position to carry out particular obligations which it had been compelled to undertake.

29. It will be remembered that the suggestion of an inquiry by experts, of which the first idea originated with the American Secretary of State, included a voluntary engagement by the German Government to accept and give effect to whatever conclusions the experts might arrive at. His Majesty's Government are not convinced that such an engagement deserves to be treated as of no value.

Legality of Ruhr Occupation.

30. The subject of the occupation of the Ruhr gives rise to a number of propositions in the French note to which it is necessary to reply. While His Majesty's Government have indicated their readiness to join in advising the German Government to withdraw without delay the ordi-

nances and decrees which have organized and promoted passive resistance, they can not subscribe to the thesis that passive resistance must cease unconditionally because it is contrary to the treaty of Versailles.

31. France and Belgium hold that the occupation has been effected in virtue of the authority conferred by par. 18 of annex II to Part VIII of the treaty. The German Government have consistently contended that such an operation does not, on a proper interpretation of that paragraph, fall within the category of "economic and financial prohibitions and reprisals and in general such other measures as the respective Governments may determine to be necessary in the circumstances."

32. The highest legal authorities in Great Britain have advised His Majesty's Government that the contention of the German Government is well founded, and His Majesty's Government have never concealed their view that the Franco-Belgian action in occupying the Ruhr, quite apart from the question of expediency, was not a sanction authorized by the treaty itself. But they would be quite willing that this or any other difference respecting the legal interpretation of vital provisions of the treaty—in so far as they can not be resolved by unanimous decision of the Reparation Commission under par. 12 of annex II—whether arising between the allied Governments and the German Government, or between different allied Governments, should automatically be referred to the International Court of Justice at The Hague or other suitable arbitration.

33. The French Government have endeavored to convict His Majesty's Government of inconsistency in now refusing to acknowledge the legality of the occupation of the Ruhr under par. 18 of annex II, when on two former occasions they joined in the presentation of ultimata threatening such occupation, and when in 1920 they actually participated in the occupation of Dusseldorf, Duisburg and Ruhrort. There is no inconsistency. The action then taken or threatened was never claimed to be in pursuance of the reparation clauses of the treaty. The Allies jointly decided to threaten Germany with the occupation of further territory just as they might have threatened her with a renewal of war, for her failure to perform her treaty obligations, some of which had no connection whatever with reparations.

34. In the view of His Majesty's Government it can not legitimately be claimed that the measures which the Allies are, under par. 18 of annex II, authorized to take in certain emergencies, include the military occupation of territory. Such occupation forms the subject of the special provisions of Part XIV of the treaty, dealing with Guaranties. It is the right to occupy the left bank of the Rhine and the bridgeheads, which has been given to the Allies "as a guaranty for the execution of the treaty." Moreover, art. 430 particularly stipulates that if the Reparation Commis-

sion finds that Germany refuses to observe the whole or part of her obligations under the treaty with regard to reparations, the whole or part of the occupied territories, which may already have been evacuated, "will be immediately reoccupied." It would have been idle to stipulate expressly for such reoccupation in case of default on reparations, if the Allies had already an unlimited right to occupy any German territory under another clause of the treaty.

35. If His Majesty's Government have hitherto abstained from formally contesting the legality of the Franco-Belgian occupation as an act authorized by the treaty, they have done so solely in conformity with the spirit of the declaration, made by Mr. Bonar Law at the Paris conference in January last, that His Majesty's Government desired to avoid causing any needless embarrassment to their Allies. This should not be made a reproach to them. His Majesty's Government would not even now have taken up this question of legality, had they not been challenged to do so.

Allied Arguments Examined.

36. The French and Belgian Governments argue that if only Great Britain had joined in the occupation there would have been no passive resistance and an abundant flow of reparation payments would have been assured. Holding the views which they did, both as to the legality and the practical value of the operation, it was not possible for His Majesty's Government to take part in it. But even if they had done so, and even if passive resistance had never been started or were now coming to an end, it is not clear how this would bring the problem of reparations appreciably nearer to a solution.

37. The French Government have now declared that the object with which they entered the Ruhr was not the prompt or complete payment of reparations, but the breaking of Germany's resistance and the creation of the will on her part to pay. But the will to pay is useless without the power, and Germany's power to pay is, in the opinion of His Majesty's Government, likely to be rapidly diminished, and in the end extinguished altogether, by a continuation of the occupation with its stranglehold on the most important center of the most productive and the most highly and delicately organized of German industries.

38. The parallel which the French Government seek to draw with German action in 1871 can hardly be sustained. It is true that Germany refused to quit the French departments which she occupied with her forces until the indemnity of 5 milliards had been paid. But this occupation was expressly provided for by the preliminaries of peace of 1871. No similar authority can be cited in the case of the Ruhr, and the real analogy in the present case is the occupation of the left bank

of the Rhine, as provided for by the treaty, and from this no one has proposed to depart.

39. Further, it may be pointed out that the recovery after the short campaign of 1870–71 of an indemnity equivalent to 4 milliards of gold marks—(a considerable percentage of which could be immediately covered in gold, and against which credit was given for the value of property in ceded territories, involving no actual expenditure by France beyond internal payments in compensation for the interests of French nationals dispossessed)—is not really comparable to the enforcement of a thirty-threefold claim against a country financially exhausted by four years of strenuous warfare and blockade. The ease with which the indemnity imposed in 1871 was paid was largely the result of the credit facilities which France was able to obtain. Germany has, on the other hand, suffered from a complete inability to obtain foreign loans, arising to a large extent from the long period which elapsed before her reparation liabilities were defined, and the worldwide uncertainty as to her ability to discharge them. Yet, in spite of this, it is fair to state, though His Majesty's Government are by no means satisfied with the performance, that Germany has in fact paid in respect of reparations and the cost of the armies of occupation, more than twice the amount exacted from France in 1871, as well as considerable sums in connection with the clearing offices and miscellaneous treaty obligations.

40. The French Government are in error in attributing to His Majesty's Government the suggestion that simultaneously with the advice to be given to Germany to abandon passive resistance, the Ruhr must be made to return to normal conditions of production. The suggestion made in the British note of July 20 was that *proposals* should be made for the restoration of the Ruhr to that condition which will enable it to become an area of fruitful production, rather than one of international strife. His Majesty's Government confess to a sense of surprise and disappointment at the difficulties apparently felt by the French and Belgian Governments in agreeing to so reasonable and so advantageous a proceeding.

Period of Occupation.

41. Although, in words of some vagueness, it is intimated that France and Belgium may, when satisfied that passive resistance has ceased, consult together as to how far they may find it possible to lighten the burden which the military occupation of the Ruhr lays on the region, nothing tangible is suggested which would hold out any hope of the occupation being brought to an end, even when the avowed object of breaking Germany's will to resist has been attained.

42. His Majesty's Government believed that they were showing the

fullest consideration for the position of France and Belgium, as well as insuring the more effective guaranty of continued and steady payments, when they suggested that the occupation would naturally terminate from the moment that guaranties or pledges, less economically harmful, and more effectively productive, than the occupation of the Ruhr, should have been not merely devised and obtained, but seen to be satisfactorily operating.

43. Even this suggestion is met by a definite refusal. Both the French and the Belgian Governments emphatically declare that there can be no question of evacuation except in proportion as payments are made by the German Government. Complete evacuation is apparently not contemplated until the total German reparation liability is integrally discharged. The reiterated announcements to this effect, coupled with the insistence on leaving undiminished the total of 132 milliards of German indebtedness under the head of reparations, can only be interpreted as an intention to remain in occupation of the Ruhr for a number of years, which, at best, can not be less than 36 (this being the minimum period over which the discharge of the debt is spread under the Schedule of Payments) and which, in view of the generally admitted improbability of the complete execution of the schedule being found practicable under any circumstances, may be extended indefinitely, if not in perpetuity.

44. Such a situation, of which the political, quite apart from the economic, consequences could only be described as disastrous, can not but be viewed by His Majesty's Government with the greatest concern. It would vividly conjure up the danger of international relations being affected in a manner threatening—to use the words of the 11th article of the Covenant of the League of Nations—to disturb international peace and the good understanding between nations upon which peace depends. His Majesty's Government can not believe that the French and Belgian Governments will be able to reconcile the opinion of the world to the indefinite maintenance of so perilous a situation.

45. As it is, the occupation of the Ruhr is already having directly and indirectly a grave effect on the economic and industrial outlook, not only in Germany, whose capacity to pay reparations is rendered more and more precarious, but in the rest of Europe, if not the world, and not least in this country.

Interallied Indebtedness.

46. In their note of July 20 His Majesty's Government further proposed that in order to arrive at a comprehensive plan for a general and final financial settlement, interallied discussions should be opened with as little delay as possible. The Belgian Government reply that they will be glad to discuss such a plan if it be of the character that they have

predicated in their note. The French Government, while questioning the propriety and apparently the legality of the suggestion, asks what exactly it means and whether it will include the question of interallied debts. His Majesty's Government gladly avail themselves of this opportunity to explain their attitude on this subject. I have accordingly the honor to inclose a separate memorandum upon it. The main principle of the British scheme is that Great Britain is ready, subject to the just claims of other parts of the Empire, to limit her demands for payment by the Allies and by Germany together to a net sum approximating 14.2 milliards of gold marks, this sum representing the present value of the recently funded British debt to the United States Government. The concessions which His Majesty's Government may be able to offer in respect of interallied debts must accordingly depend largely on the percentage of this sum of 14.2 milliards which they can recover from Germany. They can only be granted in a substantive form when the general reparation settlement for which His Majesty's Government are pressing has been agreed upon, and is such that His Majesty's Government can regard their share of the German payments as an asset of real financial value.

47. To this end the first step must be to fix the maximum sum which the Allies can reasonably hope to recover from Germany, to be followed, or accompanied, by arrangements which will insure the effective reestablishment of Germany's finances and credit on a sound basis, and will guarantee the punctual payment of the German debt by a system of control free from the economically unsound impediments inherent in the military occupation of the Ruhr.

48. In the last paragraph of their letter, His Majesty's Government offered to discuss sympathetically the question of future security with their Allies. The Belgian Government warmly welcome this offer. They will not, however, have failed to notice the remark of the French Government that the object has nothing to do with the Ruhr, and the consequent further postponement of the discussion to an unnamed date in the future. The Belgian Government will recollect from the discussions of 1922 that His Majesty's Government are not prepared to enter into any arrangement respecting the territorial security of Belgium apart from a similar arrangement in regard to France. Having regard to the now declared indifference of the French Government, no useful purpose can be served by pursuing the matter.

British Argument Summarized.

49. The argument which has been put forward in this note may be summarized as follows:

50. His Majesty's Government have at no time contemplated and do not now contemplate that Germany shall be relieved from all reparation payments. They are determined that Germany shall pay, up to the maximum of her capacity, the reparation to which Great Britain, equally with the other allied powers, is entitled, and which is needed to make good the losses sustained by this country in common with her Allies.

51. What Germany's maximum capacity for payment may be is a matter which should be determined by impartial inquiry into the facts. It can not be ascertained by casting up the amounts which Germany's creditors would like to receive. To ask for more than Germany's maximum capacity can not assist in the actual recovery of reparations. It can only destroy the assets which Germany can offer to the Allies. To force liquidation is not the most profitable way of making recovery from a debtor with resources.

52. It is admitted that Germany can only make substantial payments if, by the restoration of her public finance and a stabilization of her currency, a surplus is made available for reparation on her budget. Moreover, this surplus must be in a form in which it can be made available for external payments, over the foreign exchanges. External debts can not be paid by the collection of depreciating paper marks. In the view of His Majesty's Government forcible interference with the economic life of Germany, even if it be consistent with the terms of the treaty of Versailles, can not assist in the necessary restoration. Not only will it prevent the realization of any surplus for reparation, but, by intensifying the disorder of German finance and currency, it will have the gravest reactions on trade.

53. His Majesty's Government, therefore, regard as doomed to failure the method pursued by the French and Belgian Governments to secure reparations. In spite of wholesale seizures, the occupation of the Ruhr by France and Belgium has produced, at great cost, less receipts for the Allies, notably of coal and coke, than were forthcoming in the previous year. Moreover, His Majesty's Government feel that the resulting situation involves great and growing danger to the peaceful trade of the world and, not least, of this country. His Majesty's Government regard a continuance of the present position as fraught with the gravest risks, both economic and political. They consider the impartial fixation of Germany's liability at a figure not inconsistent with her practical power of making payment a matter of great urgency; and they have suggested what appears to them to be an appropriate means to this end.

54. When steps have thus been taken to ascertain the real value of the

asset represented by German reparations, and to secure its realization without further depreciation, His Majesty's Government will be ready to deal as generously as circumstances permit, and in the light of their respective capacity to pay, with the debts due to Great Britain by her Allies. They can not, having regard to the heavy material losses of this country, both during and since the war, and to the future tax burdens on its trade, admit that other countries are justified in claiming that the agreed percentages of reparation payments should now be further modified or changed in order of priority. But they remain prepared to ask for no more in respect of the very large sums due by their Allies than will, together with reparation payments by Germany, meet the British war debt to the United States Government. Their policy in this matter is stated in the British proposal laid by Mr. Bonar Law before the Paris conference in January last, and has not changed. It means that Great Britain would be prepared to waive, in the interest of a complete general settlement, a very large part of the amount for which the British taxpayer holds the due obligations of allied Governments.

55. It is the hope of His Majesty's Government that the above explanations will convince the French and Belgian Governments of the reasonableness of the British position, and will win their assent to its acceptance. They are reluctant to contemplate the possibility that separate action may be required in order to hasten a settlement which can not be much longer delayed without the gravest consequences to the recovery of trade and the peace of the world.

Memorandum on Interallied Debts.

1. It is in the opinion of His Majesty's Government hopeless to deal satisfactorily with the question of interallied debts until a better estimate is made of the amounts which Great Britain, on the one hand, and her Allies, on the other, are likely in fact to be able to recover from Germany for reparations.

2. His Majesty's Government adhere to the policy, which their predecessors have formally announced, of limiting Great Britain's total claim against her allied debtors and Germany together to the amount necessary to cover the British debt to the United States Government, which, as recently funded, may be taken to be represented, on a 5% basis, by a sum of 14.2 milliards of gold marks, present value. This basis is already exceedingly favorable to the Allies as the British debt to the United States Government can not be redeemed on such favorable terms.

3. This offer, in effect, means that Great Britain (whose material war damages were not less than one-third of those suffered by France) is content to forego her rights to reparation under all heads, and to treat

her own share of the German payments as if it were a reimbursement by her Allies of their debts to her.

4. Nay, the total amount for which she asks from the Allies and Germany together is, in fact, less than the amount of the allied debts, being limited to the total of the British debt to the United States Government without regard either to loans raised by Great Britain in the open American market or to the value of the American securities (estimated at £700,000,000 to £800,000,000) used to finance the allied cause in America before the entry of the United States into the war, the loss of which, from the economic point of view, is the equivalent of the contracting of an equal amount of foreign debt.

5. Of the sum of 14.2 milliard gold marks, Great Britain is anxious to recover as large a percentage as possible from Germany, in order to be able to offer the maximum concessions feasible in regard to interallied debts. But it is not possible for her to grant such concessions in a substantive form unless and until such a reparation settlement has been arrived at as will enable her to regard her share of the German payments as an asset of real financial value. His Majesty's Government greatly fear that a persistence in the policy indicated in the French note will make the prospects of such a settlement remote.

6. The only practical manner in which, in the opinion of His Majesty's Government, the question of interallied debts can now be approached, is for the Allies to agree in the first instance upon the maximum sum which they can reasonably hope to recover from Germany. When such an agreement has been arrived at, His Majesty's Government will be prepared (provided that the settlement is such as to make the German obligation a reasonably good asset) to write down, with due regard to the different circumstances of the respective debtors, the allied debts owing to them, to an amount representing the difference between the British share of the revised German obligation and the British debt of 14.2 milliards to the United States Government, and even to consider accepting payment of the allied debts so reduced in the form of the new German obligations on the principles laid down in the plan presented by Mr. Bonar Law at the Paris conference in January last.

7. They can not, however, conceal from the French Government the fact that this latter suggestion is less attractive to them than it was then, since the deterioration in the financial prospects of Germany, resulting, as they hold, from the unwise policy pursued by the French and Belgian Governments, has made the security represented by German reparation bonds much more precarious (even if the total obligations should be reduced below the figure contemplated by His Majesty's Government seven months ago).

8. His Majesty's Government feel bound to observe in this connection

that the willingness which they and their predecessors have shown to discuss with the French Government arrangements under which the burden of the French debt to Great Britain might be mitigated must not be interpreted as a waiver on their part of their rights as creditors, which are governed solely by the contracts under which the money was advanced and the securities which they hold.

9. That a French Government treasury bill given to the British Government for value received is a less binding obligation than a similar bill given to a private investor is a doctrine inadmissible both in itself and more especially in view of the circumstances in which these particular loans were contracted.

10. The normal course would have been for the French Government to appeal directly to the British investor for the accommodation it required, and that procedure was in fact adopted for a short period at the commencement of the war. It soon became apparent, however, that the French Government would be unable to raise on its own credit amounts sufficient to meet its sterling requirements, and the British Government stepped in and gave its own securities to the lender for the amounts raised to cover French requirements as well as British. By this means the French Government were able to borrow indirectly from British lenders both on less onerous terms and to a larger amount than would have been possible if the normal procedure had been followed. The payments due on the French treasury bills thus represent amounts which the British Treasury is in fact paying to the holders of securities issued on behalf of the French Treasury of which the French Treasury received the proceeds.

11. There was no suggestion when the loans were made that the repayment should be dependent on recoveries from Germany. Indeed, during the greater part of the period covered by the advances, the prospects of any such recoveries were highly problematical. The bills were made subject to renewal for a limited period only after the end of the war, with the clear intention that as soon as French credit was sufficiently re-established they should be redeemed out of French Government loans to be raised on the London market, the redemption money being applied to the cancellation of the British securities issued on French account.

12. While His Majesty's Government have, by continuing to renew the bills beyond the period of the contract, tacitly recognized that the time has not yet arrived for giving effect to this intention, it must be clearly understood that, in the absence of a new agreement, the carrying out of it remains an obligation of the French Government which can not honorably be repudiated, and that, in the meantime, the present practice of adding interest to capital can not be indefinitely continued, and that a commencement of payment of at any rate a part of the interest should be made as soon as the sterling-franc exchange becomes reasonably stable.

6. French Detailed Reply[1]

(Annex to French note of August 20, 1923.)

1. We regret not to be able to understand the British disappointment. His Majesty's Government has been for a long time informed of our views (See *inter alia*, in the Yellow Book, the conversations of M. de St. Aulaire and our two notes). Unfortunately, we have not up to now realized the effort which the British Government say they have made in order to come nearer the French views, that is, the normal carrying out of the treaty of Versailles, but we are convinced that their good will and our own will shortly be in harmony.

2. There are not only the two obstacles referred to. There is also our determination stated over and over again, not to relinquish one farthing of our reparation claims, which are sacred and unlike any other claim. There is, besides, our determination not to release the guaranty we now hold before we obtain the entire payment of reparations.

3. The British draft reply to the German note took no account of what was considered as essential by France. We said that if any reply was sent to Germany, it had, in our opinion, to deal only with the cessation of passive resistance, a preliminary and predominant question.

4. The French reply, though firm, was as courteous in substance as in tone. We are sorry to see that, though very courteous also in tone, the British reply is at bottom not very conciliatory, but we shall do our utmost to remove the misunderstanding.

5. It did not depend upon us to assist the British Government in proceeding along the diplomatic lines they themselves started upon, instead of resorting to publication. We think the former method would have proved far preferable.

6. The British Government gives us to understand they have taken into consideration our point of view. Their note of July 20 seems, however, to take no account of all the statements made by the French Government at the last London and Paris meetings and of all that the French ambassador was directed to explain to His Majesty's principal secretary of state for foreign affairs.

7. If our response has disappointed the British Government, it is because the note of July 20 held our statements as null and void. We had to repeat them and to make them more precise in our note of July 30.

8. It is for our Belgian friends and allies to give a special reply on this point.

[1]The note itself was a lengthy argumentative review of reparation history. The whole document has been translated and published in English under the title "Reply of the French Government to the Note of the British Government of August 11, 1923, relating to Reparations."

9. We could not refer to the draft letter attached to the British note of July 20, as the wording of this draft showed that no notice had been taken of our previous indications. We had to confine ourselves to once more throwing light on the fundamental principles about which, in our opinion, no discussion can be allowed to take place.

10. We leave the Belgian Government to answer this point.

11. We confess our inability to understand the reasons brought forward in the British note on the capacity of payment of a country. The present German capacity of payment is naught, as a result of the Reich's own will. Any estimate by experts would prove useless. Do the British Cabinet wish to cancel the German debt on the plea that Germany's capacity to pay is temporarily reduced to nil? Is that the conclusion it has reached?

12. We said that the German debt had been fixed under the treaty, by the Reparation Commission. We added that we upheld the whole of our claim against Germany, but that we were prepared to give up such part of it as would correspond to those of our war debts which would be cancelled.

13. According to the resolution taken by the Reparation Commission under the treaty, the amount of the German debt is 132 milliards. The present value of this amount can not be expressed, since the payment of the most important part of it (the C Bonds) is postponed to an indefinite date.

The estimate made by M. Bokanowski is but a proof of the very serious wrong already inflicted on us by the Schedule of Payments, reducing the present value of the German debt to a figure far below the theoretical one. The calculation of the honorable member of the French Parliament likewise proves that it is possible, without reducing the amount in principal of the German debt, to lighten the payment by complying with the procedure stated in Art. 234 of the treaty. The moratoria successively granted to Germany since 1921 have still further reduced the present value of this debt. It is therefore needless to overthrow the treaty.

We leave it to Belgium to reply about the priority that was granted to her. But France can not forget that Belgian territory was the first to be invaded by Germany and that it is this criminal violation of the liberty and rights of a small and gallant country that gave the war its real significance.

Denies Agreeing to Reduction

14. France never reasoned solely in her own interest, as is implied without any justification.

She never said she would be content to receive 34 milliards. Our claim as theoretically fixed, amounts to 68 milliards; our theoretical debts, subject to the adjustments that will have to take place, vary between 25

and 27 milliards. These are the figures to be set against each other and not those of 34 and 27.

Our claims on Germany have been made the subject of a Schedule of Payments which has reduced them to x milliards,[1] but our debts have not been the subject of any arrangement and we can not expect less from our Allies than has been granted to Germany. Has not the English debt to the United States been made the subject of an arrangement which has reduced its actual value some 30%? The calculations in par. 14, therefore, paint the situation to public opinion in unconsciously inexact colors.

15. Here again it is for Belgium to reply. The British Cabinet quotes the destruction of naval material which is as much a material loss as the loss of merchandise. But has not the British fleet been reconstructed and its German rival destroyed, or only reconstituted by means of ships sold by England? Whereas the factories and mines of France have not yet been restored to a prewar footing, while all the time German industry is in full blast.

16. This is a question which concerns Belgium.

17. It was not France who asked that the percentages should be modified. She does not deny, moreover, that England has made an enormous effort to re-establish her finances and to pay her debts. We should no doubt have been able to do the same had we not had our devastated regions, which we have had to reconstruct ourselves at a cost and sacrifice very much more considerable than that made by England.

The English have had to surrender their foreign securities in the interests of their Allies. But did we not do the same, and were not the sums we surrendered as great, if not greater?

18. It was England who invited us to put questions to her by speaking to us in vague and almost incomprehensible terms of a commission of impartial experts. And she has not replied to these questions. She does nothing but repeat, *à propos* of Germany's capacity of payment, statements the illusory character of which we have already shown.

19. Once again we ask that Art. 234 should be applied. Nothing proves better than Mr. Bokanowski's estimates how much lighter the burden of the debt can be made by "echelonning" payments without having to call in question the total of the debt. It is part of the duties of the Reparation Commission to proceed from time to time to determine Germany's capacity of payment, to follow the changes therein, and to "echelon" the payments in accordance therewith.

[1]By the Spa agreement France receives 52% of German reparation. The value of this percentage on Series A and B bonds is 26,000,000,000 gold marks. The same percentage of Series C bonds would be 42,640,000,000 gold marks. The uncertainty seems to arise from the fact that Austrian, Bulgarian and Hungarian reparation are chargeable against Series C bonds in proportions not identical with those of the Spa agreement.—*Editor.*

20. No observations.

21. If on the morrow of the war and relying on pre-war statistics, estimates of Germany's capacity to pay varied between 60 and 800 milliards, how is it possible to arrive at a more precise estimate in the midst of the existing economic chaos, and at a moment when Germany systematically conceals the truth and falsifies all statistics? The five years which have just elapsed, far from rendering possible a definite estimate of Germany's capacity to pay, have shown that any such inquiry would have the most unreliable results.

The estimate of 120 milliards of gold marks mentioned in our note can be found in the chapter headed "Reparations" written by Mr. Lamont and inserted in Colonel House's book "What Really Happened at Paris in 1918." (Traduction Payot, Paris, 1922.)

22. The London Cabinet admits that unanimity is necessary among the Governments before the German debt can be reduced. We have stated quite plainly that this unanimity does not exist. We can not agree to abandon any part of the claim, payment of which is vital for France; we know that Germany is and will always be rich enough to pay us; all that is required is that she should wish to do so. She is spending more to-day in resisting us than she would have to spend in meeting her obligations.

The British note alludes to the interests of Governments not represented on the Commission, interests which France might neglect. France has no need to be reminded of her duties toward other nations. She has never forgotten them. But if certain countries at the present moment are suffering in any respect, it is owing to the situation into which Germany has voluntarily plunged the world and to which we are endeavoring to put an end.

23. Either this commission of experts is the Reparation Commission itself and its agents; in which case why all this discussion? Or else it is a substitute for the Reparation Commission, and then it is contrary to the treaty.

The Expert Commission

24. We fear, alas! that this paragraph contains the whole secret of the program of the British Government, and that it reveals the real significance of the adjective "impartial" which the London Cabinet continue to add to the word "experts." Impartial experts are desired; the inference being that the Reparation Commission as at present composed is considered to be partial. It is forgotten that France alone has the right, by virtue of the Spa Agreement, to 52% of the German debt.

It is worth adding that in actual fact the French chairman of the Reparation Commission has only once had an occasion to make use of

his casting vote, and that was in connection with a Hungarian and not a German question.

25. We have nothing else to propose on this point to the British Government, except respect for the treaty and the maintenance of the commission set up thereunder. The constitution of an international commission would be a negation of the treaty signed by England as by all the other Allies.

26. The first suggestion would mean the complete supersession of the Reparation Commission and an open revision of the treaty of Versailles, that is to say, the solemn and public throwing over of engagements taken by the Allies among themselves.

The second suggestion would lead less openly to the same result. It might well set up an international body in opposition to the Reparation Commission, weaken the authority of the latter, and create two rival powers.

The Reparation Commission can, at any moment, choose experts and give them specific missions. We can never agree to a plan which while pretending to supply it with information should deprive it of all its powers and which while pretending to verify Germany's capacity to pay should prejudice the rights of France.

27. The doubt which we have previously expressed on this point remains.

28. The British argument applies equally as regards the relations of the Allies among themselves. Therefore, when we contend that the reduction in our rights which we are expected to accept is neither just nor reasonable, we trust that the London Cabinet will give due weight to the legitimacy of our objections. But after a war of four years, in which France had ten departments devastated and in which she lost more than 1,400,000 of her children, is it possible entirely to forget the evils committed by Germany, even though she has been conquered, or to wait for her to recognize her debts with good grace? When has she ever appeared disposed to recognize any figure whatever as just and reasonable? And when she does say she recognizes it, what guaranty shall we have for to-morrow?

Besides, Art. 234 and numerous provisions in Annex II were specially inserted in order to deal with the difficulties which might arise in regard to measures which might exceed Germany's capacity to execute.

29. Again it must be stated that the German Government has never hitherto given any proof of good will. Why should it change in the face of allied benevolence? France has no more intention than England of humiliating Germany, but she has no illusions on the results of a weak policy.

30. We regret that we can not agree on this point with the British Government.

31. The British Cabinet, by definitely coming out on the side of the German contentions, takes up a position in contradiction to that repeatedly upheld by England in the past.

32. We have no need to refer to any court the difference of opinion as to the interpretation of par. 18. We have only to quote the opinion previously expressed by the British Government themselves.

33. The assertions contained in this paragraph are completely inaccurate. If England, ever, as she says, thought of recommencing the war, France, on her part, has never had any such idea. She has never done anything but endeavor to secure the execution of the treaty by those means which the treaty places in her hands.

When the protocol of Spa was drawn up on July 16, 1920, it was certainly with reparations that it was concerned.

"VII. If by November 15, 1920, it is ascertained that the total deliveries for August, September, and October, 1920, have not reached 6,000,000 tons, the Allies will proceed to the occupation of a further portion of German territory, either the region of the Ruhr or some other."

It was therefore reparations that was then in question, and even a particular class of reparations.

England then considered the occupation of the Ruhr as perfectly legitimate. If she has since changed her opinion, that is her business; but we, in 1920 as to-day, never wished to commit an act of hostility, and our position has always remained logical.

34. England did not reason thus in 1920 and 1921. No less than three times new occupations were decided on by the Allies: July 16, 1920, March 9 and May 5, 1921. England associated herself with these decisions. She was of opinion then that par. 18 gave the Allies the absolute right not merely to take economic and financial sanctions or measures of reprisal, but in general all other measures which the respective Governments considered necessary, and that, moreover, without Germany being able to regard those measures as hostile acts.

As regards Art. 430, the reply to the observations of the British Government is contained on another page of this letter.

35. Here, again, the British Government attributes to us an attitude which we never adopted. We never asked that this question of legality should be raised; on the contrary, it was agreed that it should be left in abeyance (see our notes and our Yellow Book, page 48, No. 29).[1]

[1]The note referred to is dated June 15, and is a report by the French ambassador at London to Premier Poincaré. This unilateral statement, after recalling "that the British Government has never admitted our thesis," concludes: "But the British Government in reality attaches little importance to this side of the question which I think it preferable not to raise again."

The Will to Pay

36. We did not go into the Ruhr thinking to find there immediately money for reparations, but above all to arouse in the German Government the will to pay and in order to secure guaranties. We have said so times without number. If the Ruhr has ceased to be productive, it is because of passive resistance. We were only looking for a pledge; it was Germany who voluntarily stopped the exploitation of the Ruhr in order to deprive us of the pledge. She would certainly not have taken this action if all our Allies had been on our side, and if she had not counted on the divisions in our midst.

37. We have destroyed nothing in the Ruhr. Germany's capacity to produce is greater than ever; good will only is lacking, which is required to enable Germany to transform her capacity of production into capacity of payment. The argument of the British Cabinet attributes to the occupation of the Ruhr a result which had already taken place before the Ruhr was occupied; it must not, however, be forgotten that Germany had pleaded her own inability to pay and had demanded a four years' moratorium before ever we went into the Ruhr.

38. We note with satisfaction that the British Government do not intend to propose the evacuation of the Left Bank. But our occupation of the Ruhr, carried out under par. 18, is as much justified, as was the German occupation of 1870.

39. The war of 1870–71 was long and hard for France; it involved the invasion of a great part of her territory, much requisitioning, and many ruins. This paragraph of the English note has caused a painful impression in France.

To-day again, after a new invasion and unheard-of devastation, France has already been able to advance herself 100 milliards of francs for German account. It is she who, in spite of Germany having been defeated, has paid up to date the bill for her reparations, and even supposing that Germany has in various ways paid eight milliards since the war, it is not France which has been the gainer. Moreover, the treaty provided that 20 milliards should be paid before May 1, 1921, and we are almost at the end of 1923.

Comparison with 1871

In any case, is it true that the indemnity imposed on Germany is 33 times higher than that which was paid to Germany in 1871? It is to be noted in the first place that besides the indemnity France had to bear after 1870 the cost of upkeep of the German troops, the loss of revenue from the ceded territories, the cost of successive loans, and that she paid in addition her military pensions, indemnities to departments, communes, the railway companies, &c. The total cost was

seven milliards in addition to the five milliards paid to Germany. Moreover, the British Cabinet does not take into consideration the value of money, or the increase in the wealth of the country between 1870 and 1920 after fifty years of development without equal in history.

France was willing to pay; Germany is not.

In 1871 we paid the whole cost of the war; in 1920 Germany refuses to pay for the reparation of what she wilfully destroyed in order to put us in a position of economic inferiority over a term of years.

It is distressing to realize that the British Cabinet does not appreciate this difference of conduct at its true worth.

40. There was no question of "proposals" in the note of July 20, but of two formal conditions. The "proposals" referred only to the changes which we might make in the occupation, and they were unacceptable in any case, because they presupposed evacuation before payment had been made.

41. We have never been vague, and we never said nor even allowed it to be supposed that we should abandon our pledge once resistance had been broken and before complete payment. The lightening of the occupation has been defined as far as possible.

Payment Wanted

42. There is here a fundamental disagreement. The British Cabinet can not but have read all the Franco-Belgian *communiqués*. We are altogether disposed, once resistance has ceased, progressively to alter the character of the occupation and to insure, in agreement with our Allies, supervision over our pledges, But we will not evacuate the Ruhr in return for fresh promises; it is payment that we want.

43. It lies with Germany to induce us to leave the Ruhr soon by setting herself to putting her finances on a sound basis, to contracting international loans, and to freeing herself by anticipating her payments. The hope of our evacuation should be to her a stimulant.

44. We protest once again with indignation against the supposition that France is trying to annex the Ruhr or to remain there. It is not we who wish to prolong the situation.

The British Cabinet threatens us with an appeal to the League of Nations, as if there were the danger or even the possibility of war.

We can not admit from any point of view that the question should be put in these terms.

45. France is in no wise responsible for the economic crisis. It is German resistance which is prolonging a painful situation; anything which can be considered as encouraging German resistance contributes to this prolongation, and everything which does not discourage this

resistance encourages it. Chancellor Stresemann's recent speech is further proof. Besides, the most recent statistics published by the British Government, which refer to the month of July, show that since the occupation of the Ruhr—that is to say, from January to July, 1923—Great Britain's exports and imports exceeded both in weight and in value those of the first seven months of 1922. Great Britain's transit trade—that is, the trade which is of the most importance for British shipping—increased 13.5% in comparison with her re-exports of 1922.

Interallied Debts

46. We are glad to learn at last the views of the British Government on the question of interallied debts, but we regret that we can not consider them as expressed to-day as capable of being reconciled with French interests. It is very natural that England should try to recover from Germany what she owes to the United States. That is what we wish to do with our interallied debts. But England says: "I have promised to pay 14.2 milliards to the United States. I will demand from my Allies on the debts they owe me what I do not obtain from Germany."

Thus it will be the allied debtors of England who will pay her what Germany does not pay of the 14.2 milliards due to the United States. The British Cabinet thereby links up Germany and her own Allies, and places war debts and interallied debts on the same footing.

Is it, however, possible to mix up the sums which the Allies spent to win the war with those which Germany owes for having ravaged our territories? Every pound and every dollar which France owes to England or the United States represents a saving of allied blood. The gold marks of Germany represent an expenditure of allied blood.

We can not moreover refrain from calling attention to a curious coincidence; the 14 milliards to which Great Britain appears to limit her claim against Germany represents exactly England's percentage (22%) on the 65 milliards of gold marks which the British Cabinet consider the present value of the German debt (see paragraph 13 of her note). On the other hand, the interest on the German debt is at 5%, while that on the English debt to the United States has been fixed at 3% to begin with, and 3½% later on. The result is that the annuity which the British Government owes actually to the United States Government is practically equal to the annuity which it should receive on its share of the A and B bonds of the German debt. On the basis of these figures England, therefore, renounces nothing of the London schedule.

Where, then, is the sacrifice which she is to make in return for those which she demands from her allies?

47. The British Cabinet asks us to begin again what was done on May 5,

1921. Germany has upset everything. A new experiment does not attract us.

48. This paragraph entirely distorts our ideas, which were, however, clear enough. We said, in so many words, that if the two questions of the Ruhr and security were distinct "we should always be happy to enter on conversations with the British Government regarding this last question." This surely meant "let us negotiate immediately if you so wish, but do not let us mix up two distinct questions."

France showed sufficiently clearly quite recently on the Disarmament Commission of the League of Nations, that she was ready to discuss all questions concerned with the consolidation of peace, and she even had the satisfaction of seeing the British representatives agree with her point of view. Moreover, at the beginning of 1923 (*sic*), when Mr. Lloyd George offered us a unilateral pact of guaranty contingent on the prior settlement of all pending questions between France and Great Britain, limited to five years and containing no precise indication of the military assistance to be rendered, we replied that we should be happy to examine these propositions, on condition, however, that the duration of the pact exceeded that of the occupations provided for in the treaty, that it was mutual, and that it was accompanied by reciprocal and effective military guaranties; that is to say, on condition that it had a practical value for the two countries. Hitherto no reply has been given to us. France is ready to-day to renew the examination of all problems relating to security. But guaranties, even effective ones, against new attacks can not be allowed to deprive her, in whole or in half, of her right to reparations.

49. In brief:

50. It is impossible to estimate once and for all the present and future capacity of payment for Germany. It is at present at its lowest, and an estimate made at present would merely benefit Germany.

51. The impartial inquiry can and should be made, not only at present but also later and from time to time by the Reparation Commission and its own experts in accordance with the provisions of the treaty.

52. Germany has refused to establish her finances on a sound basis and to stabilize her currency in spite of repeated demands by the Allies. The sooner Germany understands the necessity of realizing these reforms, the sooner she will be able to restore her credit and to improve her economic conditions. She will then be able to find, little by little, means of transferring her internal wealth, which is immense.

53. It is German resistance to the occupation, and not the occupation itself, which has reduced the deliveries made on account of reparations, especially those of coal and coke. Before ever we entered the Ruhr Germany was demanding a general moratorium, and was declaring her inability to continue deliveries in kind on the existing scale. It is strange

that the British Cabinet argues as though these declarations had never been made.

54. If the British Cabinet, as is its right, does not feel able to modify the percentages nor to accord priority to reparations we, for our part, are forced to stand strictly by the figures which were promised to us, with the explicit agreement of England, both under the treaty of Versailles and under the London Schedule of Payments.

55. The Government of the Republic, as much as the British Cabinet, ardently desires to maintain peace in the world, to re-establish there normal life and to develop the facilities of commerce. But it does not believe that an economic restoration of Europe is possible without an observance of treaties or by methods other than those of justice. It has taken action, not isolated but distinct from that of Great Britain, only after express consideration by the Reparation Commission. It is conscious of having remained true to its engagements to its Allies, it remains resolved never to deny them.

Annex: Debt to Britain

1. The British Government, by subordinating the question of interallied debts to the valuation of German capacity for payment, and by wishing to estimate this capacity at the moment when it is lowest, are driven inevitably to the conclusion that the interallied debts shall be fixed at the highest figure.

2. It is quite legitimate that the British Government should claim from Germany what they have to pay to the United States. But if they claim from us what they do not receive from Germany, we shall naturally be obliged to maintain as far as necessary the right to recover from Germany within the limit of our admitted rights.

3. In offering not to claim against Germany under the heading of C bonds except to the extent to which claims are made against her for her interallied debts, France, whose material losses are greater than those of all the Allies put together, and whose human losses are much greater than those of any one of the other Allies, has shown herself ready to make a sacrifice much greater than that of England.

4. The total which France claims from Germany is much smaller than the expenditure which she is compelled to make to restore her devastated regions, quite apart from that which she would have the right to demand on the score of pensions.

5. We for our part gravely fear that the policy set forth in the British note does not take account of the abnormal economic situation of France, and that it tends to impose on her a burden which she can not carry.

6. The British Cabinet, therefore, definitely intrusts the settlement of

interallied debts to an international examination conducted by irresponsible financiers and to the constitution of a commission in which France and Belgium will find themselves in a minority.

7. The British Government persist in attributing to the occupation of the Ruhr the consequences of a policy followed by Germany before that occupation and pursued by her since that occupation, as if that policy would have changed had we not occupied the Ruhr. Such an argument, or, to speak more exactly, such a statement, is in contradiction with all the facts which are the result of the labors of the Reparation Commission in 1922, and even with the repeated declarations of the British Government, who more than once last year proclaimed the ill-will of Germany and the danger of her financial methods.

8. We understand very well that the British Government reserve their rights. They will understand, no doubt, that we reserve ours *vis-à-vis* Germany.

9. We have never questioned England's claim. We have merely said, and repeat, that our debt, contracted as it was in exceptional circumstances and with a common object in view, could not be compared from the point of view of morality and justice with the German debt for reparations.

10. The expenditure which the Government met by means of these advances was nevertheless for the essential object of equipping and maintaining armies fighting for the common cause.

11. If no suggestion was made when the loans were incurred that their repayment depended on sums to be recovered from Germany, it was because at that moment the Allies considered only the pooling of their efforts and were all working with the same ardor for a common victory; at the end of the war the figures suggested for reparations, whether by the treaty of Versailles itself (a minimum of 100 milliard marks guaranteed by bonds), or by the London Schedule of Payments, would have permitted France to repay England the whole of her debt without difficulty.

12. France has never repudiated her debts, nor will she do so, but she is convinced that no British Government will ever bring to bear on an allied country the pressure which the London Cabinet does not think it possible to bring to bear to-day on the ex-enemies of France and England. We can, therefore, only repeat that we shall only be able to repay our debt to England, or even to pay interest thereon, when payments from Germany shall have placed us in a position to complete the reparation of damages caused to our country by invasion and the shock of war.

III. THE BELGIAN STUDIES OF A SETTLEMENT

Immediately after the receipt of the German note of June 5–7 by the Governments, the Belgian foreign minister forwarded, on June 9, 1923, a lengthy note which covered technical studies of German methods of payment in a more objective and scientific manner than any similar document of allied origin. These studies, which are here published in English for the first time, were in the hands of the Committees of Experts of the Reparation Commission and considerably affected their findings.

The document bore no fruit for several months. Dispatched on June 9, it was based upon the insistence that "the enterprise of January 11 last [the Ruhr occupation] must end in a success and not in a defeat." The British Government, holding definite views as to the illegality of that enterprise, did not at the time accept the premise. The controversy to which the previous chapter has been devoted intervened. On September 26, however, German passive resistance was discontinued in the Ruhr. The way was consequently opened for the consideration of the plans on their merits and without conditions. On October 13 the Belgian Government was able to issue the following *communiqué:*

The Belgian Government has called the attention of the French, British and Italian Governments to the technical studies of the reparation problem communicated by the Brussels Government to the allied Governments, suggesting the advisability that they be examined by the Reparation Commission. These technical investigations indicate methods by which Germany could pay her debt.

The Belgian Government feels that these reports are destined to serve, partially at least, as a basis for a concrete reparation plan. In submitting them to the Allies she had only one purpose, namely, to assist in bringing about a practical solution of the reparation problem. The Belgian Government had thought that when the Reich should have abandoned its policy of resistance, fulfilling the condition upon which, according to the French and Belgian *communiqué* of June 6, the question of resumption of negotiations hung, it would be extremely desirable for the Allies to be in accord concerning the solution of the reparation question.

Doubtless the cessation of passive resistance may not yet be considered complete, but the Belgian Government takes the view, owing to the

technical character of the reports which it submitted to the Allies, that a preliminary examination should be made of them by experts, thus facilitating the task of the Governments of the Allies when they are again called upon to study anew the reparation problem.

The French, British and Italian Governments have accepted the Belgian Government's proposal and the Reparation Commission will undertake the work.

Within the week the technical studies were officially before the Reparation Commission as a starting point for their investigations. Meanwhile, the German Government, which knew the substance of the studies and from which a move was due, was preparing a new offer. This took the form of a note from the Kriegslastenkommission to the Reparation Commission, dated October 24, which formally surrendered the position held from the previous January and proposed negotiations on the Belgian plan. This note, defining the situation at that time, reads as follows:

On January 13 last the German Government informed the Reparation Commission that, owing to the occupation of the Ruhr basin, it had discontinued the performance of reparation obligations to the powers taking part in that occupation. By a note dated January 26 last the Reparation Commission replied to this notification to the effect that it considered as null and void thenceforth the requests formally made by the German Government with a view to reaching a new settlement of the reparation question, and that, this being so, all the provisions of the Schedule of Payments of May 5, 1921, became due.

Now, the German Government, having by its declaration of September 26, 1923, called upon the population of the occupied territories to give up passive resistance against the occupation of the Ruhr basin, and having annulled the ordinances and the instructions issued with regard to the resistance, its decision to discontinue the performance of the reparation obligations to the powers participating in the occupation of the Ruhr has simultaneously become inoperative. The German Government consequently states *expressis verbis* that it is in principle prepared to resume the execution to these powers of the obligations provided for in the treaty of Versailles.

On the other hand, the change which has taken place in the state of affairs in Germany since January last and has brought about the present economic situation has, in point of fact, deprived the German Government of the possibility of raising at present the funds requisite for enabling it to finance the obligations stipulated in the treaty of Versailles. Since the German Government's statements of November 14 and 27, 1922,

were delivered there has come about, by reason of the occupation of the Ruhr basin and of the economic and financial severance of the territories of the Rhine and the Ruhr basin from the remainder of Germany, a radical change in the resources and capacity of Germany. Owing to the decay of the economic life of Germany and of German finances resulting therefrom, the German Government—as the Reparation Commission is well aware—was, as early as August 11, 1923, compelled, while recognizing in principle its obligation to carry out the stipulations at issue, to proclaim its inability in point of fact to make further deliveries in kind to the other powers. For the same reason the German Government is quite as unable at present to continue or to resume the financing of these obligations.

The German Government consequently submits to the Reparation Commission a request to enter upon an examination of the resources and capacity of Germany—in pursuance of Art. 234 of the treaty of Versailles—as well as to give the representatives of the German Government an opportunity of explaining with full particulars the actual state of the resources and capacity of Germany and to make known the measures taken by her Government with a view to bringing about budget reforms and the stabilizing of German currency.

As regards the decree concerning the creation of the German Rentenbank, by which a reform of German currency has been prepared, I beg herewith to submit it to the Reparation Commission.

The German Government has learned that the Reparation Commission has handed on to its finance service for examination and report the technical suggestions of the Belgian Government with regard to the settlement of the reparation problem. The German Government is submitting in writing to the Reparation Commission its observations on the Belgian suggestions. Considering the complicated nature of the matter in hand, it may be advisable to give its representatives a chance of stating by word of mouth their views on the Belgian suggestions as well as on the German observations.[1]

It was all arranged that the Reparation Commission was to study the Belgian plans in conjunction with the Germans when the American consent to participate in examination of the economic problem was made known on October 25. The Anglo-American conference proposal was rejected by France, which put forward the cognate suggestion of committees of experts under the Reparation Commission. It was by them that the Belgian studies finally received detailed study.

[1]London *Times*, October 25, 1923.

Belgian Technical Studies of German Means of Payment[1]

I. Enumeration of a Certain Number of Receipts from which an Annuity Might be Established

The object of this study is to inquire into a certain number of resources which might be used in establishing an annuity.

We shall examine separately and as briefly as possible, the amount which, after a necessary period of adjustment of currency and of the budget, we might expect to be yielded by:

1. Leasing the management of the German railroads;
2. Leasing of consumption monopolies;
3. Coal deliveries.

The tax on articles of common consumption is developed in this survey under the form of a leased monopoly because the collection of the tax can in this way be brought more directly under foreign control. But a Government monopoly can equally well be considered. And even if there should be insurmountable objections to both these plans, some other way could probably be found which would not be inconsistent with effective control.

CHAPTER I. LEASING OF THE GERMAN RAILROADS

Recent conversations would seem to indicate that there is a group of German manufacturers who would be willing to re-assume the working of the Reich's railroads, paying an annual rental of 1,000,000,000 gold marks.

These conversations seem to have been in no sense official, nor have they been in the nature of definite propositions, and they of course do not afford any serious grounds upon which might be based a calculation of the yield that might be expected from leasing the railroad system.

Moreover, the results obtained by the German Government in working this system, which it took over again on April 1, 1920, have not been such as to offer a good basis for an estimate of the rental value of this system.

The special economic and political conditions to which German industry have been subject since the war are well known. They are responsible for the fact that the German railroads have been operated at a loss since their management was centralized in the hands of the Reich. It is neither necessary nor timely to prove this here. It will be sufficient to

[1]Translated from *Documents diplomatiques relatifs aux Réparations*, No. 30. The studies were submitted to France on May 24, 1923, and to Britain on June 9. The Committees of Experts worked with fuller and later information than was available to the Belgians; so that their conclusions inevitably differed in detail.

illustrate the fact by giving two different sets of figures: one showing a comparison of rates, and the other of personnel.

With regard to rates, one has only to glance at the table given below, which shows the relation between the prewar rates on merchandise and those in force after the various increases made during 1922, together with the relation between the mark and the gold mark.

RATES FOR MERCHANDISE IN 1922

Period when Rate was in Force	*Relation between Present and Prewar Rates*	*Depreciation of the Mark*
1922		
February	28	1/50
March	34	1/66
April	48	1/69
May	57	1/75
June	72	1/179
July and August	90	1/349
September	134	1/718
First 2 weeks of October	280	1/718
Last 2 weeks of October	448	1/1618
November	673	1/1757
December	1,680	1/3958

The above table shows at a glance that the increases in rates have never been in proportion to the depreciation of the mark; and for certain periods (for example, the month of September) the ruling rate for merchandise represented less than a fifth of what it should have been to equal the prewar schedule.

A comparison in the case of passenger rates is still more striking, as is shown by the following figures:

PASSENGER RATES IN 1922

Period when Rate was in Force	*Relation between Present and Prewar Rates*	*Depreciation of the Mark*
1922		
February to September	17	1/129
October	25	1/718
November	51	1/1618
December	103	1/1757

We note that from February to September (a period when the value of the paper mark in its relation to the gold mark decreased from 50 to 350) the passenger rate remained fixed in paper marks at 17 times the prewar figure. For the month of November, the passenger rate was only one-thirtieth of what it should have been to equal the prewar figure.

The above gives sufficient indication of the enormous decline in receipts entailed by the failure to change the rates to conform with the depreciation of the mark.

It is a well-known fact that since the Reich took over again the railroad system the costs of operation have increased beyond all reasonable limits, due no doubt to conditions connected with the domestic policy adopted. Among other indications of this fact is the increase in the number of employees.

The present system, which extends over 50,000 kilometers and which before the war employed 650,000 people divided among eight different administrations, now employs nearly a million, although it has been centralized under a single administration; making an increase of over 50% of the prewar personnel.

We might mention by way of example that in Belgium, where the railroads are also under state control, the number of employees in 1913 was 73,400, and in 1921 it was 83,300, representing an increase of 13% in the prewar personnel.

This simple comparison shows to what an extent the costs of operation could be reduced, if they were brought within the normal limits of the ordinary commercial enterprise, conducted without regard to political considerations.

On account of the loss of income caused by absurdly inadequate rates and by an equally unjustifiable increase in overhead expenses, it is impossible to gain from the results of government operation of the German railroads any idea of the receipts which might reasonably be expected.

A better idea will be possible if we refer to the results of government ownership before the war during a normal period, when each of the confederated states, moreover, operated its own system.

According to information given by the German delegation to the Brussels Conference of Experts (December, 1920) the railroads of the German states (about 55,000 kilometers) closed their fiscal period in 1914 with the following profits:

Prussia and Hesse	462	million	marks
Bavaria	68	"	"
Saxony	25	"	"
Wurttemberg	17	"	"
Baden	26	"	"
Mecklenburg	4	"	"
Oldenburg	7	"	"
Total	609	"	"

It should be noted that the territorial surrenders ordered by the peace treaty have reduced the total length of the railroad system from about 55,000 to 50,000 kilometers, or scarcely 10%.

On the other hand, it is certain that there has been an increase in the value of the system and consequently in its possible yield on account of the improvements of all kinds that have been made, particularly those made during the war to facilitate military operations.

Taking for granted that the 10% reduction in rail length due to the loss of territory is counterbalanced by the increase in value resulting from improvements, we may conclude that the German railroad system as it now stands is capable of yielding an income equal to that of 1914, or more than 600 million marks, considering the mark at the 1914 value.

It appears then that if we base our calculations on the present low level of gold (1922 average: 1.49), we might expect a total annual profit of about 1,000,000,000 gold marks from a normal operation of the German railroad system.

It becomes plain, therefore, that the conversations to which we have referred above were based on estimations made in all seriousness and that the German Government should find no real difficulty in *leasing the operation of its railroad system at an annual rental of 1,000,000,000 gold marks.*

CHAPTER II. LEASING OF CONSUMPTION MONOPOLIES

1. General Considerations

It has frequently been demonstrated that the proceeds of the German consumption taxes are considerably less than they might be, and are inferior, other things being equal, to the proceeds of the same taxes in other countries.

It is not our intention to demonstrate this fact again here, but it will be plainly brought out by the figures given in the following paragraphs.

As is known, the extremely low proceeds of German indirect taxation is due principally to the steady depreciation of the mark combined with the fact that in the case of some taxes the rate is applied not to the value of the article, but to the quantity; when taxes of this sort are fixed in paper marks and remain fixed regardless of the depreciation of the mark and the consequent rise in prices, they soon represent only a very small fraction of the value of the articles to which they are applied. We shall have several examples of this condition.

In working on any scheme of indirect taxation, in order to arrive at any worth-while conclusions, it is therefore most important to have a plan which will not be affected by variations in the value of the mark. Whether the proceeds of the consumption taxes are obtained through a specific tax or through an ad valorem tax, the gold basis is the only one upon which reasonable calculations can be based. We shall accordingly try to reduce the facts of the problem to a gold basis, and shall assume that the different taxes considered will be collected on that basis. In

other words, the amount to be collected in paper marks for each tax must represent a fixed gold value regardless of the depreciation of the mark. In actual practicc, this may easily be done by applying to the tax itself a correctly determined premium ("Aufgeld"), which is a system similar to the one now in force in Germany on custom duties, but more accurate.

In the succeeding paragraphs we shall take up in order the various articles which are subject to consumption taxes.

In each case we shall try to determine what the taxation was before the war, or when first levied, what taxation has been established by the "Fiscal Compromise" (April 8, 1922), which is now in force, and what the corresponding taxation is in other large countries. In this way we can decide on what a normal indirect taxation in Germany should be, and what yield could reasonably be expected from it, if it were established on a gold basis, as mentioned above.

These figures will indicate with sufficient accuracy for first approximations the proceeds that might be expected from commercial monopolies on the different articles considered and the rental that could consequently be set for leasing such monopolies to carefully established consortiums.

The present study is not concerned with an investigation as to the forms which such monopolies should take.

There are a number of different ways in which such monopolies might be set up. The important thing is to proceed with great caution and with as little disturbance as possible to the present economic structure of Germany.

For this reason we do not think it wise to consider the formation of monopolies on production or manufactured goods, because they would have a most disturbing effect on German production. Any such attempts would have but slight chance of success, and in the event that they did succeed, it would be only after a long period of innumerable experiments and in the face of great difficulties. It is essential that any monopolies whose formation is decided upon should be able to begin functioning as quickly as possible and that they should yield the expected return at the earliest moment.

In view of the foregoing considerations, we shall consider here only sales monopolies, which will disturb in no way the industrial organization of Germany because their operation will not necessitate any change in the methods of production and manufacture prevailing in that country. Only the commercial practices would be somewhat affected, but in so slight a degree that there would be no great difficulty and no appreciable loss of time.

The alcohol monopoly created in Germany by the law of July 27, 1918, and re-organized by the law of April 8, 1922, offers an example of the ease with which such organisms may be set up.

In the following paragraphs we shall therefore consider only the creation of a sales monopoly for the different articles which are subject to a consumption tax. We shall inquire into the amount which a reasonable consumption tax on each article might be expected to yield, and we shall assume such taxes to be collected on a gold basis.

This yield might be fixed in accordance with the volume of business handled by the monopoly, or the profits made by it, or a definite annual figure might simply be set.

As one of the matters with which we are concerned is a consideration of suitable guaranties for the annual use of a determined capital, we shall give our preference to the method whereby the holder of the monopoly pays a fixed rental, such rental to be turned over to the reparation fund or to the guaranty fund of the loan issued in this connection.

According to our plan, then, the selling price will be equal to the price of purchase at the plants and factories, plus general expenses and costs of organizing the monopoly, plus a fair profit for the latter, and to this sales price will be added a tax equal to the consumption tax which the article in question might reasonably bear. This last figure will naturally be included in the selling price and will constitute the annual rental to be paid by the holder of the monopoly. It is this figure which we intend to fix for each of the articles to be considered.

2. Tobacco

The greater part of the tobacco consumed in Germany is imported, either in the form of raw tobacco to be manufactured there, or in the form of snuff, chewing tobacco, cut tobacco, cigars, and cigarettes.

At the present time Germany imports 76,000,000 kilograms and grows on her own soil 30,000,000 kilograms. Exports amount to about 5,000,000 kilograms, so that Germany's annual consumption amounts to a little over 100,000,000 kilograms.

The consumption tax is calculated on the retail sales price. It yielded 144,000,000 gold marks during the fiscal year 1920–21, and 160,000,000 gold marks during the following fiscal year. Owing to the depreciation of the mark the yield has now declined to 74,000,000 gold marks.

At the present time, then, this represents a tax of 0.74 gold marks per kilo.

This yield, which is due not only to the depreciation of the mark, but also to the inadequate rate of taxation, is absurd; in France the profits realized by the tobacco monopoly on a consumption one-half less than in Germany represent a levy of from 5.1 to 7.3 gold marks per kilogram. It must also be remembered that in France it is a state monopoly and that a higher yield might reasonably be expected from a commercial monopoly.

It would therefore seem perfectly fair to fix the rate of taxation in Germany in such a way as to insure a yield equivalent to 4.5 gold marks per kilogram.

If this were done, the rental of a tobacco monopoly would amount to *450,000,000 gold marks.*

3. Beer

Before the war beer was subject to a very complicated tax and each of the confederated states had its own system. The proceeds in 1913 amounted to 130,000,000 gold marks.

The law of July 25, 1918, fixed an average tax of from 10 to 12.5 marks per hectoliter, capable of being reduced or increased, and representing at the rate of exchange prevailing then an average tax of about 9 gold marks per hectoliter.

In April, 1922 (Fiscal Compromise) the average tax was increased from 40 to 50 paper marks per hectoliter, representing at the current rate of exchange about 0.65 gold marks per hectoliter, or 1/20th of the tax imposed in 1918.

Since that date it has remained unchanged, so that in April, 1923, when there are 5,061 paper marks in one gold mark, it represents about 0.01 gold marks per hectoliter, or 1/65 of the tax under the Fiscal Compromise and less than 1/1,000 of the 1918 tax.

This absurdly low tax is worthy of comparison with the one imposed in England, which is £2–10–0, or 46.5 gold marks per hectoliter.

It seems fair to conclude that a tax equivalent to 6 gold marks per hectoliter would be a moderate one, not only as compared with the tax prevailing in other countries (46.5 gold marks in England), but even in comparison with the 1918 rate in Germany (9 gold marks per hectoliter).

As the annual consumption of beer in Germany is between 30 and 40 million hectoliters, it is evident that the lowest possible estimate of the income from this tax would be *200,000,000 gold marks.* This amount, therefore, may be considered the minimum annual rental of a beer monopoly.

4. Still Wines

The tax on still wines was established in Germany by the law of July 25, 1918, which fixed the rate at 20% of the selling price.

The Fiscal Compromise continued the tax at that rate, and as such it is still in force.

The income from it, which amounted in 1920–1921 to 46,300,000 gold marks, has now dropped to 11,400,000 gold marks on account of the depreciation of the mark.

The consumption of wine in Germany is over 200,000 hectoliters a

year; the value of this consumption was 2,000,000,000 paper marks in 1919 and 3,000,000,000 paper marks in 1920, representing about 320,000,000 gold marks a year. A 20% ad valorem tax on this basis, therefore, would represent an annual income of 64,000,000 gold marks.

Making a very conservative estimate, we would say that a still wine monopoly should easily furnish a rental of *50,000,000 gold marks*, according to the income from the tax on that product in 1920–1921.

5. Sparkling Wines

The taxation of sparkling wines in Germany goes back to the law of May 9, 1902, which was modified by the law of July 15, 1909, and remained in force until July 26, 1918.

Under this law the tax on sparkling wines gave 10,000,000 marks in 1913.

The law of April 21, 1920, modified the rates set by the law of July 26, 1918, and raised the tax to 3 marks a bottle for fruit wines containing no grape wine and to 12 marks a bottle for all other sparkling wines. This tax represented about one gold mark a bottle.

The Fiscal Compromise of April, 1922, replaced this tax by a 30% ad valorem tax on the selling price. The income from this tax is at present only about 1,000,000 gold marks a year, although the annual consumption amounted to 15,000,000 bottles in 1919 and 10,000,000 in 1920.

A tax on the basis of one gold mark per bottle should yield annually *5,000,000 gold marks* (one-half the prewar yield) and this figure might be considered a fair rental for a sparkling wine monopoly. It is, however, less than the amount yielded by the sparkling wine tax in the last few years (fiscal year 1921–1922: 7,300,000 gold marks).

6. Mineral Waters and Lemonades

Mineral waters were first taxed in Germany under the law of July 26, 1918. This was modified by the law of April 8, 1922, which raised the tax to 5 marks and 10 marks a hectoliter for mineral water and lemonade, respectively. As the result of the depreciation of the mark the income from this tax, formerly 3,000,000 gold marks (fiscal year 1920–1921), is now only 250,000 gold marks a year. The taxes now in force are based on the average rates of exchange during the first three months of 1922 (54 paper marks to one gold mark), and at that rate they represent 0.1 gold mark and 0.2 gold mark per hectoliter for mineral water and lemonade, respectively.

A tax on this basis applied to the annual consumption of 500,000 hectoliters of mineral water and 2,000,000 hectoliters of lemonade would yield less than 500,000 gold marks.

Taking into account, on the one hand, the nature of the product,

because of which any increase in the tax rate would probably cause a decided drop in consumption, and on the other, the comparatively small income that can be derived from this source, it would seem unnecessary to consider, at least for the present, the question of establishing a monopoly on the sale of mineral waters and lemonades.

7. Alcohol

At the present time alcohol in Germany is under a state monopoly, which has been in force since October, 1919, was revised on October 1, 1922, and which had its origin in a bill introduced in the Reichstag on April 17, 1918.

According to this bill the taxes (which were at that time between 84 and 125 marks per hectoliter) were to be raised to allow the Reich a profit of 800 marks per hectoliter, representing about 650 gold marks per hectoliter. At present as a result of the depreciation of the mark the tax applied to an annual consumption of 2,000,000 hectoliters amounts to not over 130 gold marks per hectoliter; *moreover this tax is applied to only one-half the consumption, the other half being practically tax-free.*

This rate of 130 gold marks per hectoliter is besides very low as compared with the taxes imposed in other countries, as follows:

England:—£143-16-0 — 2,700 gold marks per hectoliter
Belgium:—Bel. Frs. 2,400 — 800 gold marks per hectoliter
France:—Fr. Frs. 1,000 — 345 gold marks per hectoliter

It would seem, then, very moderate to fix this tax for Germany at 500 gold marks per hectoliter, especially as the bill of 1918 provided for a tax of 650 gold marks. Moreover, although necessary exemptions would be permitted, extending even to half the consumption, which is rather high, it is only fair to keep these exemptions within such limits that the tax-free portion should never exceed *an average of 75%.*

One-half the consumption, or 1,000,000 hectoliters, would then be taxed at the rate of 500 gold marks per hectoliter, the average rate of the other half being 125 gold marks per hectoliter.

Under these conditions the tax collected on the gold basis would give an annual minimum yield of 600,000,000 gold marks, which represent a fair rental for a commercial monopoly on alcohol.

8. Acetic Acid

At present in Germany this article is under a monopoly about which we have very little information.

The production, however, is very low, and it would not seem worthwhile to consider the establishment of a commercial monopoly in this line.

9. Sugar

Before the war the consumption tax on sugar in Germany (14 marks per 100 kilograms) represented about 25% of the selling price (50 to 60 marks per 100 kilograms). It produced at that time 174,000,000 marks a year.

Under the present régime sugar is paying 50 marks per 100 kilograms, which at the average rates for the month of March, 1923, (5,061 paper marks for one gold mark) represents 0.01 gold marks, or 1/400 of the prewar tax. Based on the selling price current in March, 1923, namely 125,000 paper marks per 100 kilos, this represents a tax of 0.04% of the selling price. The yield even of this ridiculously low rate will be considerably reduced on account of the six-months' extension of payment in force from April 1, 1923.

Sugar is subject in France and Great Britain to taxes of 52 francs, or 18 gold marks, and £1/1/4, or 23 gold marks, respectively, per 100 kilograms, which represents 13 and 20% of the respective selling prices (400 francs per 100 kilograms in France and £6/5/0 in Great Britain).

It is, therefore, moderate to fix the tax on sugar in Germany at 10 gold marks per 100 kilos; this would bring the selling price to not over 60 gold marks per 100 kilos, which was the prewar price, while the selling prices in France and Great Britain are 116 and 140 gold marks, respectively.

The income from even this moderate tax on sugar in Germany when applied to its consumption of 1,300,000 tons would amount to *130,000,000 gold marks*. This figure can be taken as an indication of the annual rental to be paid by a sugar monopoly. Even then it is far below the yield of the corresponding tax before the war.

10. Edible Salt

The tax on salt in Germany, fixed at 12 marks per 100 kilos in 1913, has remained unchanged in spite of the depreciation of the mark, which means that in March, 1923, as the rate was 5,061 paper marks to one gold mark, the tax was 1/5000 of the prewar tax.

Consequently the revenue, which was 62,000,000 gold marks in 1913, has declined to several thousand gold marks.

In view of the nature of this product, there should be no objection to applying to it the prewar tax on a gold basis (12 gold marks per 100 kilos).

As the annual consumption of Germany is slightly over 600,000 tons, the revenue from this source would equal *70,000,000 gold marks*, which is the rental to be expected from a salt monopoly.

11. Matches and Patent Lighters

As the consumption of wax matches in Germany is slight as compared with wooden matches, we shall consider only these latter. Taxed in 1913 at a rate of 0.01 to 0.015 marks per box, they yielded a revenue of 22,000,000 gold marks.

The present rate is from 0.04 to 0.06 paper marks per box, which means that, at the average rate in March, 1923 (5,061 paper marks per gold mark) a box of matches pays a tax which amounts to only 1/1000 of the prewar tax.

It would then seem reasonable to apply to this product the minimum prewar tax, or 0.01 gold marks per box.

As the annual consumption in Germany is 1,700,000,000 boxes, this tax represents receipts of over 15,000,000 gold marks, which sum is the minimum rental to be expected from a match monopoly.

If a tax is placed on lighters equivalent to one gold mark apiece, which is a moderate tax compared with those in force in other countries (Belgium: 5 francs apiece), there will be from the total consumption of over 4,000,000 a revenue of more than *4,000,000 gold marks.*

To sum up, if wax matches and lighters are included, this monopoly should easily furnish a rental of 20,000,000 gold marks.

12. Lighting Apparatus

This classification includes incandescent bulbs, gas and similar mantles, carbons for arc lights, mercury lamps, etc.

These articles are subject to an individual tax according to rates fixed by the law of July 15, 1909, modified by the law of April 8, 1922.

Prior to the modifications effected by this latter law, the tax yielded (fiscal year of 1920–21) 1,200,000 gold marks a year.

As the rate was quadrupled without causing any decline in consumption, it would seem reasonable to expect an annual income of about *5,000,000 gold marks* from a monopoly on the sale of these articles, calculating the tax now being collected on a gold basis.

13. Playing Cards

The annual consumption of playing cards in Germany is between 4 and 5 million, the greater part of which is her own manufacture.

The tax to which they are subject yields a very slight income, and the article itself does not seem of sufficient importance to warrant the establishment of a monopoly.

14. Sweetening Materials

A monopoly on these goods has been in force in Germany for several months, which it seems should yield about 250,000 gold marks a year.

We have very little information on the monopoly, and in view of its insignificance we shall not make in this preliminary survey any study of the income which such a monopoly could yield.

15. Coal

The tax on coal was first established in Germany during the war by the law of April 8, 1917, in accordance with which a 20% ad valorem tax was imposed. By the law of April 8, 1922, this tax was increased to 40%. A new law dated March 20, 1923, while leaving the rate practically unchanged, gives the minister of finance power to reduce it or to increase it within certain limits and under certain conditions.

Under the first of the above-mentioned laws, the 20% tax yielded during the fiscal year 1920–1921 the sum of 382,000,000 gold marks, and during the following fiscal year the sum of 264,000,000 gold marks. Although the tax has been increased to 40%, the income for the present fiscal period will not be over about 200,000,000 gold marks.

The steady decline in the gold value of the revenue from the coal tax is due to the depreciation in the mark, which has had an adverse effect on the gold value to be taxed.

The following table indicates the changes in the price of coal in Germany during the years 1920, 1921, and 1922:

Period	*Price at the mine including tax (paper marks)*	*Average Rate of paper marks (to gold)*	*Price at the mine including tax (gold marks)*
January, 1920	108.40	14,207	7.63
February, 1920	162.40	22,613	7.18
March, 1920	182.50	18,991	7.61
April, 1920	208.90	14,334	14.57
May 1, 1920 to Mar. 31, 1921	215.40	13,746	15.67
April 1 to June 30, 1921	247.00	15,432	16.01
July and August 1921	254.90	19,155	13.31
Sept. 1 to Nov. 30, 1921	248.70	40,152	7.09
Dec. 1, 1921 to Jan. 31, 1922	455.00	45,542	9.99
February, 1922	526.00	49,500	10.63
March, 1922	675.50	66,400	10.17
April 1 to 19, 1922	800.30	71,300	11.22
April 20 to June 30, 1922	1,019.80	70,800	14.40
July, 1922	1,357.00	116,672	11.63
August, 1922	1,700.00	240,758	7.06
September, 1922	4,616.00	348,453	13.25
October, 1922	5,686.00	717,692	7.92
Nov. 1 to 15, 1922	9,131.00	1,557,818	5.86
Nov. 16 to 30, 1922	15,765.00	1,683,507	9.36
December, 1922	25,613.00	1,835,765	13.95

During these three years the average value of coal at the rates indicated was equivalent therefore to 12.5 gold marks a ton, this figure including an average tax of 3.6 gold marks per ton based on the last taxation (40% ad valorem).

If this rate were continued and the tax were simply collected on a gold basis, there would be a revenue of 400,000,000 gold marks from the annual consumption of Germany (which is at present 110,000,000 tons).

It should be noted, however, that the taxation of coal in Germany has been possible only on account of the low price of coal when reckoned on a gold basis, which has in turn been directly due to the steady fall of the mark.

The question may be raised as to whether as soon as the mark is stabilized, the price of coal will not speedily reach the level in other countries. If this should happen, it would no longer be possible to impose a tax of any importance on coal.

We shall therefore not consider here the establishment of a monopoly on coal sales, because of the fact that any coal tax might have to be given up and it is thus impossible for us to make an estimate of a fixed rental for such a monopoly.

16. Tax-free Articles in Germany

We have considered in the preceding paragraphs the establishment of monopolies on articles which are already subject to a consumption tax in Germany.

There is no reason why we should not consider the creation of monopolies on other products, which are subject to a consumption tax in other countries, such as colonial foodstuffs, in particular coffee, tea, chocolate, and cocoa.

And we might add to this list petroleum, various essences, and benzol.

Finally, we might consider a monopoly on insurance, an industry which has reached a high point of development in Germany, and monopolies on electric, gas, and water power, etc. However, in the case of these latter, the question would seem to be very complicated, and the establishment of such monopolies would undoubtedly be a very difficult problem.

17. Recapitulation

The monoplies that we have considered in the preceding paragraphs would bring in the following annual revenues:

Tobacco	450 million gold marks
Beer	200 " " "
Still wines	50 " " "

Sparkling wines	5 million gold marks
Mineral waters and lemonades	—
Alcohol	600 million gold marks
Acetic acid	—
Sugar	130 million gold marks
Salt	70 " " "
Matches and lighters	20 " " "
Illuminating apparatus	5 " " "
Playing cards	—
Flavoring materials	—
Coal	—
TOTAL	1,530 million gold marks

This figure might of course be considerably increased by continuing the tax on coal and establishing a monopoly on that product, and by creating monopolies on the articles named in paragraph 16, which are not now subject to a tax in Germany.

CHAPTER III. COAL DELIVERIES

During the last three years, Germany has delivered to the Entente 52,000,000 tons of coal, receiving credit from the Reparation Commission to the amount of about 900,000,000 gold marks.

She has, therefore, delivered an annual average of slightly over 17,000,000 tons, representing a "reparation value" of about 300,000,000 gold marks a year, and she has been credited at an average price of about 17 gold marks a ton.

In view of recent events, it does not seem unreasonable to assume that Germany would find no difficulty in the future in delivering 20,000,000 tons of coal a year.

Basing our calculations on the prices prevailing during the last three years for German coal (prices which have indeed been very low), we find that *the annual value of coal deliveries in the future would then amount to 340,000,000 gold marks, and this figure may be considered a minimum.*

It goes without saying that these deliveries would be accompanied by a corresponding credit entry in the German budget.

We shall not take up here the value of other deliveries in kind that Germany might make, for example: dyes, pharmaceutical products, chemicals, etc., although these might be taken into consideration later if they were needed to complete the necessary annuity.

CHAPTER IV. SUMMING UP AND CONCLUSIONS

We have noted in the preceding chapters that an annual revenue of 1,000,000,000 gold marks should be derived from leasing the operation of the German railroads.

In Chapter II we have shown that an annual revenue of 1,530,000,000 gold marks should be derived from leasing the monopolies on tobacco, beer, wines and alcohol, sugar, salt, matches and illuminating apparatus.

Finally, we have seen that 340,000,000 gold marks was a very modest estimate of the future annual deliveries of coal.

We thus have reached an annual total of 2,870,000,000 gold marks.

These results are based on the most reasonable estimates, especially those which represent the proceeds of leasing the monopolies of articles of common consumption; it is plain, therefore, that they are most moderate and might even allow of being considerably increased.

The annual total does not take into account the other sources which might be drawn upon in securing the reparation payments due from Germany, as for instance, participation in industrial profits, (which is treated in another survey), and in the proceeds of the customs duties.

II. Participation in German Enterprises

It has often been suggested that the Allies might secure a partial guaranty for the "reparation" debt by participating either in the capital or the revenues of German industrial and commercial enterprises.

Numerous more or less definite plans along these lines have been offered, the most interesting probably being the one that considers the participation of the Allies in the profits of German industry and commerce, through the collection of a real "impôt cédulaire" (bonded tax) on the revenues of that class.

This plan would work out as follows:

All the German industrial, financial and commercial enterprises except retail houses, middlemen, and very small businesses, whether operating as joint-stock companies, limited liability companies, private companies, limited companies, etc. or private enterprises, would all be required to deliver to the Reparation Treasury (Caisse des Reparations) "Bons de Participation" (Participation Bonds). These bonds would give title to 25% of the net profits realized by these enterprises.

Each enterprise would be required to deliver the proper share of its profits to the Caisse des Reparations in the same way that taxes are paid to the state; and this obligation would be subject to the same privileges, and the same methods of recovery would be used in case of failure to pay.

The Caisse des Reparations would be empowered to take any necessary steps to verify the profits declared by the enterprises (such as examination of balance sheets and profit and loss accounts, correspondence, records, etc.), and it would have power to prevent fraud, concealment of profits, etc.

Moreover, sanctions would be provided by law to punish any attempts at frustration, concealment of profits, refusals to give information, etc.

Any disputes that might arise would be settled by an arbitration commission composed of representatives of the Caisse des Reparations, representatives of German industry, and German, allied, and possibly neutral jurists.

It is particularly difficult to form an estimate of what the future profits of German industry and commerce will be.

It is not even possible to base one's calculations on the record of the past, because there are no statistics on all the industries. The only statistics available are those of the joint-stock companies known as "Aktiengesellschaft". These, however, are the most important, if not in number, at least in the amount of capital invested.

In the following paragraphs, therefore, we shall consider only these latter.

The number of "Aktiengesellschaften", as well as the *nominal* capital invested, has considerably increased during the last ten years, as is shown by the following table:

Year	*No. of Aktiengesellschaften*	*Total nominal capital, billions of marks*
1913	5,486	17.4
1914	5,505	17.8
1915	5,504	18.0
1916	5,529	18.3
1917	5,553	17.9
1918	5,609	19.7
1919	5,345	20.3
1920	5,657	20.0
1921	6,636	49.4
1922	9,669	104.1

This total nominal capital furnishes no indication, of course, as to the market value of the stock. But if the current quotations are consulted, it will be seen that the total exchange value of this capital has gone from 30,700,000,000 marks in 1913 to 724,300,000,000 paper marks in 1922.

If the exchange value were converted into gold marks, it would be apparent that the increase in rates on a paper mark basis has never been nearly sufficient to make up for the loss of value due to the depreciation of the mark. Thus, if the total exchange value of 724,000,000,000 paper marks were converted into gold marks on the basis of the index numbers of wholesale prices, the result would be only 5,000,000,000 gold marks in 1922, as against 30,700,000,000 in 1913.

Does this mean that the *real* value of these businesses has diminished proportionately? Not at all. The number of companies has increased. The old companies have increased their capital. The majority of them have acquired real estate, made important purchases of property, have put in extensive improvements, and finally there is not the slightest doubt that the *real* value of these companies as a whole must be now higher than their prewar value. The fact that this situation is not revealed by the stock exchange quotations is only another of the many consequences of the depreciation of the mark, which has an unsettling effect (*agit avec un certain "décalage"*) on the prices of shares as well as on the prices of everything else.

In order to obtain a more accurate idea of the present real value of German industry as shown in the joint-stock companies, it would probably be necessary to take the gold value of the total capital quoted in 1913, or 30,700,000,000 gold marks, and to add to it at the different periods of issue the gold value of:

1. the capital of companies established since 1913;
2. the increases of capital made by old companies.

These figures would indicate a gold value at the times of issue amounting to 36,500,000,000 gold marks for the total joint-stock companies in 1922.

We now find that we have two estimates. The first, based only on the rates quoted in 1922, converted to a gold basis in accordance with the index numbers of wholesale prices, gives 5,000,000,000 gold marks. The other, based on the value quoted in 1913 and on subsequent acquisitions, gives 36,500,000,000 gold marks.

Which of these two estimates should be followed?

It is reasonable to suppose that if the mark becomes stabilized and if the general economic situation improves, the price of stocks as well as of everything else will continue to rise and will have a tendency to become fixed at a new level.

However, it can not be expected that these prices will become fixed at a level corresponding to the prewar prices.

The gold value of the total capital of joint-stock companies will finally therefore become fixed, after the stabilization of the mark, at a point above their present gold value of 5,000,000,000 gold marks and less than their 1913 gold value of 36,500,000,000 gold marks. It seems fair to suppose that this level will be approximately the average of these two figures, and it appears reasonable to hope that after the financial situation of Germany is stabilized the quoted capital of the joint-stock companies will represent a total amount of about 20,000,000,000 gold marks.

An examination of the profits distributed by these companies, on the

other hand, reveals that from the year 1913 up to the present they have increased from 9 to 25% of the nominal capital and decreased from 5 to 3½% of the quoted capital.

It is only logical to assume, however, that after the general situation is improved, the price of stocks will be stabilized at a point which will permit of a 5% yield, as was the case before the war.

Under these conditions, a revenue of 11,000,000,000 gold marks could be counted on. In the case of the joint-stock companies alone, therefore, the Allies would participate to the extent of *250,000,000 gold marks.*

These are purely hypothetical figures and are given only as an example. The present uncertainty with regard to Germany's future prevents any more definite estimate.

We have given the foregoing considerations only in order to show that a study of participation by the Allies in the profits of German industry is interesting and might well be considered in any attempt to find the best ways of securing reparation payments.

III. Guaranties for Reparation and Balance of the German Budget

In recent plans consideration has been given to the subject of proper guaranties for the financing of reparation.

These guaranties were:

1. Proceeds of the leasing of the railroads;
2. Coal deliveries, and later of other products;
3. Participation in the profits of German enterprises;
4. Customs duties;
5. Proceeds of an alcohol monopoly;
6. Proceeds of a beer monopoly;
7. Proceeds of a tobacco monopoly;
8. Proceeds of a sugar monopoly.

There is one fact which should be noted with regard to the last six of these guaranties.

It is plain that if the proceeds of the customs duties, a portion of the industrial and commercial profits, and the proceeds of the sugar, beer, tobacco and sugar monopolies are to serve as guaranties for reparations, the result will be the same as if the usual corresponding receipts were deducted from the German budget. In fact:

The proceeds of customs duties are no longer at the Reich's disposal.

With regard to the 25% participation in the profits of enterprises, it would seem difficult to have this in addition to the tax which the Reich collects on these same profits; the collection of the tax would therefore have to be discontinued.

Finally, the rental expected from the alcohol, beer, tobacco, and sugar monopolies seems inconsistent with the tax now being collected by the Reich on the consumption of these commodities.

The question is whether if these taxes were discontinued the ensuing decline in receipts would be sufficient to interfere with the balance of the German budget.

This is a point which we shall try to clear up.

It should be remarked first of all that any reference to the budgets since the armistice would be futile, because they are based on an unstable currency and show ever increasing deficits.

There is only one period in the history of the German budget when such a comparison would be of value. That is the period embracing the months of April, May and June 1922, during which the value of the mark fluctuated very slightly.[1]

During these three months, the total receipts of the Reich were 57,000,000,000 paper marks.

The expenses for this period:

For general cost of administration	30.4 billion paper marks
For the régies[2]	4.0 billion paper marks
For the peace treaty	45.8 billion paper marks
TOTAL	80.2 billion paper marks

It is plain, then, that during these three months the budget for the general administration of the Reich, not including expenses incurred in operating the régies and connected with the peace treaty, showed a surplus of 27,000,000,000 paper marks.

It is, accordingly, fair to say that if the value of the mark had remained constant during the rest of the fiscal period, the budget for general administration would have shown a surplus at the end of the fiscal year of around 108,000,000,000 paper marks, the equivalent of 1,500,000,000 gold marks.

And if the expenses incurred in the operation of the régies are included, the surplus would have been 23,000,000,000 paper marks for the quarter, or .92,000,000,000 paper marks, (equivalent to 1,300,000,000 gold marks) for the entire fiscal year.

During these three months of April to June, 1922, what were the receipts from the taxes and duties which we are considering deducting from the German budget? The receipts in question are definitely

[1] Average gold marks, April, 1922 . . . . . 68.9
paper marks, May, 1922 . . . . . 69.3
June, 1922 . . . . . 74.8
Three-month period 71.0

[2] Government offices in charge of operation of state monopolies.

shown in the accounts published each month by the German Government, except those derived from the tax on business profits, which are included in the income tax returns. With the exception of these, the receipts under consideration were as follows:

	Millions of Paper Marks		
Customs duties	2,941,	or 5.1%	of total receipts of period
Consumption tax on alcohol	1,055,	" 1.8%	" " " " "
" " " beer	149,	" 0.3%	" " " " "
" " " tobacco	2,441,	" 4.3%	" " " " "
" " " sugar	115,	" 0.2%	" " " " "
Total receipts from above 5 classes	6,701,	" 11.7%	" " " " "

As we have said previously, the receipts derived from the tax on business profits do not appear in the Reich accounts, which give simply the total revenue from the income tax.

It is, however, possible to form an idea of the probable amount of such receipts. We know, for example, that the net profits of joint-stock companies in 1922 were 12,000,000,000 marks. Estimating roughly that the profits of joint-stock companies represent one half of the total profits of German industry and commerce, we reach a figure for the latter amounting to 24,000,000,000 paper marks in the year 1922. The 15% tax imposed on these profits at that time will show a revenue for the year of 3,600,000,000 paper marks, or an average for each three months of 900,000,000 paper marks.

In our preliminary studies we can use this figure to represent the income from the profits tax during the period April to June, 1922. It is equivalent to 1.6% of the total receipts for the period.

The seven classes of taxes under consideration have shown a revenue during the three months April to June, 1922, of 7,600,000,000 paper marks, or 13.3% of the total revenues of the period.

It is, therefore, evident that if the receipts of the seven classes of taxes enumerated above were deducted from the revenues of the Reich, it would still have at its disposal for the quarter under discussion the sum of 49,400,000,000 paper marks (instead of 57,000,000,000 paper marks).

The surplus of the budget for general administration during this period would have been reduced from 27,000,000,000 paper marks to 19,400,000,000 paper marks.

And the surplus of the budget for general administration during the entire year would accordingly have been reduced by the deduction of these seven classes of income from 108 to 77,600,000,000 paper marks, or from 1,500,000,000 to about 1,000,000,000 gold marks.

It would have been further reduced to 660,000,000 gold marks if we

had deducted the 340,000,000 gold marks representing the value of the coal which the German Government is to pay its manufacturers for reparations deliveries.

Basing our deductions then on a period when the mark was comparatively stable, we see clearly that notwithstanding the deduction of the revenues involved in the guaranties under consideration, the German budget for general administration still shows a surplus at the end of the fiscal period amounting to about 1,000,000,000 gold marks.

There accordingly seems to be no doubt that under normal financial conditions (with the mark stabilized and the budget balanced) these seven classes of revenue to which we have referred can be deducted from the budget without in any way endangering its balance.

World Peace Foundation

Vol. VI 1923 No. 5

REPARATION

Part V

THE DAWES REPORT

OFFICIAL TEXT

(superseding the earlier edition of Vol. VI, No. 5, containing the New York Times cabled version)

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The corporation is constituted for the purpose of educating the people of all nations to a full knowledge of the waste and destructiveness of war, its evil effects on present social conditions and on the well-being of future generations, and to promote international justice and the brotherhood of man; and, generally, by every practical means to promote peace and good will among all mankind.—*By-laws of the Corporation.*

It is to this patient and thorough work of education, through the school, the college, the church, the press, the pamphlet and the book, that the World Peace Foundation addresses itself.—Edwin Ginn.

The idea of force can not at once be eradicated. It is useless to believe that the nations can be persuaded to disband their present armies and dismantle their present navies, trusting in each other or in the Hague Tribunal to settle any possible differences between them, unless, first, some substitute for the existing forces is provided and demonstrated by experience to be adequate to protect the rights, dignity and territory of the respective nations. My own belief is that the idea which underlies the movement for the Hague Court can be developed so that the nations can be persuaded each to contribute a small percentage of their military forces at sea and on land to form an *International Guard or Police Force.*—Edwin Ginn.

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I. THE UNITED STATES AND REPARATION

The relation of the United States to reparation, which culminated in the acceptance by the Secretary of State of appointments of American citizens as reparation experts, has been continuous but always unofficial. Members of the American peace delegation participated in the organization of the Reparation Commission and in December, 1919, Albert Rathbone, assistant secretary of the Treasury, was instructed to attend its meetings. In the spring of 1920 Roland W. Boyden[1] succeeded him, but was withdrawn on February 19, 1921, as a courtesy of the Wilson Administration to its successor, which was due to take office on the following March 4. "When the present Administration came into power it was felt that this Government should not forego the opportunity to be made fully cognizant of all the proceedings of the Reparation Commission."[2] The desired invitation emanated from David Lloyd George, prime minister of Great Britain, as president of the Allied Conference sitting in London, on May 5, 1921:

As president of the Allied Conference, which is just completing its sittings in London, I am authorized with the unanimous concurrence of all the powers here represented to express to the United States Government our feeling that the settlement of the international difficulties in which the world is still involved would be materially assisted by the cooperation of the United States; and I am, therefore, to inquire whether that Government is disposed to be represented in the future, as it was at an earlier date, at allied conferences, wherever they may meet, at the Ambassadors' Conference, which sits at Paris, and on the Reparation Commission.

We are united in feeling that American cognizance of our proceedings and, where possible, American participation in them, will be best facilitated by this.

The following reply of the Government of the United States was communicated by the Secretary of State to the British ambassador on May 6:

The Government of the United States has received through the British Ambassador the courteous communication in which you state that, with

[1] Mr. Boyden resigned to take effect August 1, 1923, and was succeeded by James A. Logan.

[2] Secretary Hughes to Senator Lodge, January 25, 1923.

the unanimous concurrence of the powers represented at the Allied Conference in London, you are to inquire whether this Government is disposed to be represented in the future, as it was in the past, at allied conferences, at the Conference of Ambassadors in Paris and on the Reparations Commission.

The Government of the United States, while maintaining the traditional policy of abstention from participation in matters of distinctly European concern, is deeply interested in the proper adjustments and in the just settlement of matters of world-wide importance which are under discussion in these conferences, and desires helpfully to co-operate in the deliberations upon these questions.

Mr. George Harvey, appointed ambassador to Great Britain, will be instructed on his arrival in England to take part as the representative of the President of the United States in the deliberations of the Supreme Council. The American ambassador to France will be instructed to resume his place as unofficial observer on the Conference of Ambassadors, and Mr. Roland W. Boyden will be instructed to sit again in an unofficial capacity on the Reparation Commission.

The Government of the United States notes with pleasure your expression of the belief of the representatives of the allied Governments assembled in London that American co-operation in the settlement of the great international questions growing out of the World War will be of material assistance.

According to David Lloyd George,[1] a proposal to appoint a committee of experts to attempt a settlement of the problem under the Reparation Commission was made "in October, 1922, by the Secretary of State of the United States of America, first of all to France. France turned it down. It was then communicated to our ambassadors by the Secretary of State. He made a speech in December, 1922. . . . He made that speech because nobody took any notice of his communications. He made that in despair. I was under the impression that that was his way of making the offer to Europe, and I thought, frankly, that it was not a very good way of doing it. Then I discovered that Mr. Secretary Hughes communicated it formally to the Governments, and no notice was taken of it at all." The former British premier's intimation had been made in Washington. In December, 1922, Senator Borah introduced an amendment to the naval bill to provide for an international economic conference in which the

[1] House of Commons, January 15, 1924, London *Times*, January 16, p. 18.

United States would participate. A letter from the President in which he stated that "it is wholly inconsistent to invite a conference for the consideration of questions in dealing with which the Government is denied all authority by act of Congress" was read to the Senate on the 28th. The ensuing debate brought from Senator McCormick the statement that "negotiations are known to be pending." The President's letter, because it states more clearly than any other official document the real reason why the United States has not taken any constructive part in "a world situation which is of deep concern to the United States," is printed herewith.

Secretary of State Hughes delivered an address before the American Historical Association at New Haven on December 29 in which he discussed several current subjects in foreign relations. The latter part of this address was entitled "Economic Conditions in Europe." It was recognized as a frank statement of position and embodied a definite proposal that "men of the highest financial authority" be invited to report on "the amount to be paid and upon a financial plan for working out the payments." He had "no doubt that distinguished Americans would be willing to serve in such a commission." In any case the experts should be free "from any responsibility to foreign offices and from any duty to obey political instructions." He hoped "that the way may soon be found for a frank discussion and determination of what is essentially an economic problem."

The secretary's hope was expressed at the time when the Reparation Commission was declaring defaults of Germany by split votes and just previous to the reconvening of the Interallied Conference at Paris on January 2, 1923. That conference was so busy with mutual disagreement concerning the British and French proposals, which are appended to Chapter I,[1] that the American offer received no attention. There followed the entrance into the Ruhr on January 10 and the ensuing tension and disagreement, which did not begin to dissipate until October, 1923.

On October 12, 1923, the Marquess Curzon, who had in the interval been engaging in controversy with M. Poincaré as recorded in Chapter II,[1] took advantage of a press reference to a statement by President Coolidge that the Hughes speech still held good,

[1] *World Peace Foundation*, Reparation, Part IV.

to ask whether, if any inquiry were undertaken, "the majority of the Allies might still hope for American co-operation."

Secretary Hughes replied at length on October 15. In substance, the Government of the United States was "entirely willing to take part in an economic conference in which all the European Allies chiefly concerned in German reparations participate." This conference would be "advisory." The United States was "not in a position to appoint a member of the Reparation Commission inasmuch as such an appointment can not be made without the consent of the Congress." The secretary had "no doubt that competent American citizens would be willing to participate in an economic inquiry for the purposes stated, through an advisory body appointed by the Reparation Commission,"—a statement in direct reply to an inquiry of Marquess Curzon.

It will be noticed that this correspondence contemplated either an international conference or an inquiry under the Reparation Commission, to either of which the United States was agreeable, provided it did not officially participate. Immediately after the publication of the notes on October 26 there occurred an apparently acute controversy between the United States and Great Britain on one side and France on the other. In reality, France accepted the Reparation Commission expert inquiry proposal of the British note, but, while this was done quietly, strenuous objections in a press campaign were made to the conference proposal. When the smoke cleared away it seemed that the British proposal had been defeated and that a French proposal for expert committees under the Reparation Commission had been adopted. This appearance was heightened by a French *communiqué* of October 28, which emphasized French opposition to reduction of the German obligation.

It was upon a French motion that the Reparation Commission on November 30, 1923, voted to appoint committees of experts to pursue inquiries into means of balancing the German budget and of stabilizing the German currency. A third committee was to examine the export of German capital on the theory that German private funds were being held abroad in order to avoid reparation payments. The United States was formally invited on December 5 by the Reparation Commission to participate in the first two committees, and the German Government two days later repeated the invitation.

The United States, it was stated in the reply of December 12, was "not in a position to be represented on these committees," but it viewed "with favor the acceptance by American experts of invitations to participate."

1. Letter of the President Relative to an International Conference

The White House
Washington, December 27, 1922.

My dear Senator Lodge:

Replying to your inquiry relative to the proposed amendment to the pending naval bill, authorizing and requesting the President to call an economic conference to deal with conditions in the war-torn nations of Europe, I write to say that I know of no prohibition against such an expression on the part of the Congress, but I do frankly question the desirability of such an expression. I think it is undesirable because of false impressions which may be conveyed thereby to Europe, and even more undesirable because of the wrong impression it conveys to our own people.

On the face of things it is equivalent to saying that the Executive branch of the Government, which is charged with the conduct of foreign relations, is not fully alive to a world situation which is of deep concern to the United States.

As a matter of fact, the European situation has been given most thorough and thoughtful consideration for many months. Without questioning the good faith of the proposal, I am very sure it would have been more seemly, and the action of the Congress could be taken much more intelligently, if proper inquiry had been made of the State Department relative to the situation in which we are trying to be helpful. Of necessity, the communications of the State Department relative to delicate matters among nations can not be bulletined from day to day, but the situation is never withheld from members of Congress who choose to inquire for confidential information in a spirit of co-operation. Such inquiry would have revealed the futility of any conference call until it is understood that such a conference would be welcomed by the nations concerned, within the limits of discussion which the expressed will of Congress compels this Government to impose.

In ratifying the treaty of peace with Germany, the Senate made a reservation that the United States should not be represented on the Reparation Commission without consent of the Congress, and no such consent has been given. Moreover, in creating the World-War Debt Funding Commission, that body was restricted to explicit terms for

rates of interest and ultimate time of payment. If Congress really means to facilitate the task of the Government in dealing with the European situation, the first practical step would be to free the hands of the Executive so that helpful negotiations may be undertaken.

It is quite generally accepted that the adjustment of the question of reparation must underlie any economic rehabilitation of Europe, and reparation can not be settled without the consent of Governments concerned. The United States can not assume to say to one nation what it shall pay in reparation nor to another nation what it shall accept.

In discussions with foreign Governments, the previous Administration and the present Administration have insisted that the question of European debts to the United States is distinct and apart from the question of reparation, but European nations hold a contrary view, and it is wholly inconsistent to invite a conference for the consideration of questions, in dealing with which the Government is denied all authority by act of Congress.

So far as the limitation of land armaments is concerned, there seems to be at this time no more promising prospect of accomplishment than when the conference was held in Washington a year ago. Here, again, I venture to warn the Senate against the suggestion to our own people or a gesture of promise to the world which can not be fulfilled until the nations directly concerned express their readiness to co-operate to such an end.

With respect to a limitation of auxiliary types of naval craft, which are not limited by the present naval treaty, it is to be said that such an agreement is much to be desired, whenever practicable, but we may reasonably postpone our further endeavors along that line until the agreements made at the Washington Conference secure the final sanction of all Governments concerned.

Very truly yours,

WARREN G. HARDING.

Hon. HENRY CABOT LODGE,
United States Senate,
Washington, D.C.

2. ADDRESS OF SECRETARY OF STATE HUGHES, NEW HAVEN, DECEMBER 29, 1922

(*Excerpt*)

The economic conditions in Europe give us the greatest concern. They have long received the earnest consideration of the Administration. It is idle to say that we are not interested in these problems, for we are deeply interested from an economic standpoint, as our credits and markets

are involved, and from a humanitarian standpoint, as the heart of the American people goes out to those who are in distress. We can not dispose of these problems by calling them European, for they are world problems and we can not escape the injurious consequences of a failure to settle them.

They are, however, European problems in the sense that they can not be solved without the consent of European Governments. We can not consent for them. The key to the settlement is in their hands, not in ours.

The crux of the European situation lies in the settlement of reparations. There will be no adjustment of other needs, however pressing, until a definite and accepted basis for the discharge of reparation claims has been fixed. It is futile to attempt to erect any economic structure in Europe until the foundation is laid.

How can the United States help in this matter? We are not seeking reparations. We are indeed asking for the reimbursement of the costs of our army of occupation; and with good reason, for we have maintained our army in Europe at the request of the Allies and of Germany and under an agreement that its cost with like army costs should be a first charge upon the amounts paid by Germany. Others have been paid and we have not been paid.

But we are not seeking general reparations. We are bearing our own burden and through our loans a large part of Europe's burden in addition. No demands of ours stand in the way of a proper settlement of the reparation question.

Of course we hold the obligations of European Governments and there has been much discussion abroad and here with respect to them. There has been a persistent attempt ever since the armistice to link up the debts owing to our Government with reparations or with projects of cancellation. This attempt was resisted in a determined manner under the former Administration and under the present Administration. The matter is plain enough from our standpoint. The capacity of Germany to pay is not at all affected by any indebtedness of any of the Allies to us. That indebtedness does not diminish Germany's capacity, and its removal would not increase her capacity. For example, if France had been able to finance her part in the war without borrowing at all from us, that is, by taxation and internal loans, the problem of what Germany could pay would be exactly the same. Moreover, so far as the debtors to the United States are concerned, they have unsettled credit balances, and their condition and capacity to pay can not be properly determined until the amount that can be realized on these credits for reparations has been determined.

The Administration must also consider the difficulty arising from the

fact that the question of these obligations which we hold, and what shall be done with them, is not a question within the province of the Executive. Not only may Congress deal with public property of this sort but it has dealt with it. It has created a commission and instead of giving that commission broad powers such as the Administration proposed, which quite apart from cancellation might permit a sound discretion to be exercised in accordance with the facts elicited, Congress has placed definite restrictions upon the power of the commission in providing for the refunding of these debts.

But what is our attitude toward the question of reparations, standing as it does as a distinct question and as one which can not be settled unless the European Governments concerned are able to agree?

We have no desire to see Germany relieved of her responsibility for the war or of her just obligations to make reparation for the injuries due to her aggression. There is not the slightest desire that France shall lose any part of her just claims. On the other hand, we do not wish to see a prostrate Germany. There can be no economic recuperation in Europe unless Germany recuperates. There will be no permanent peace unless economic satisfactions are enjoyed. There must be hope and industry must have promise of reward if there is to be prosperity. We should view with disfavor measures which instead of producing reparations would threaten disaster.

Some of our own people have suggested that the United States should assume the rôle of arbiter. There is one sufficient answer to this suggestion, and that is that we have not been asked to assume the rôle of arbiter. There could be no such arbitrament unless it were invited, and it would be an extraordinary and unprecedented thing for us to ask for such an invitation.

I do not think that we should endeavor to take such a burden of responsibility. We have quite enough to bear without drawing to ourselves all the ill-feeling which would result from disappointed hopes and a settlement which was viewed as forced upon nations by this country which at the same time is demanding the payment of its debts.

But the situation does call for a settlement upon its merits. The first condition of a satisfactory settlement is that the question should be taken out of politics. Statesmen have their difficulties, their public opinion, the exigencies which they must face. It is devoutly to be hoped that they will effect a settlement among themselves, and that the coming meeting at Paris will find a solution. But if it does not, what should be done? The alternative of forcible measures to obtain reparations is not an attractive one. No one can foretell the extent of the serious consequences which might ensue from such a course. Apart from political results, I believe that the opinion of experts is that such measures will

not produce reparation payments but might tend to destroy the basis of those payments which must be found in economic recuperation.

If, however, statesmen can not agree and such an alternative is faced, what can be done? Is there not another way out? The fundamental condition is that in this critical moment the merits of the question, as an economic one, must alone be regarded. Sentiment, however natural, must be disregarded; mutual recriminations are of no avail; reviews of the past, whether accurate or inaccurate, promise nothing; assertions of blame on the one hand and excuses on the other come to naught.

There ought to be a way for statesmen to agree upon what Germany can pay, for no matter what claims may be made against her, that is the limit of satisfaction. There ought to be a way to determine that limit and to provide a financial plan by which immediate results can be obtained and the European nations can feel that the foundation has been laid for their mutual and earnest endeavors to bring about the utmost prosperity to which the industry of their people entitles them.

If statesmen can not agree, and exigencies of public opinion make their course difficult, then there should be called to their aid those who can point the way to a solution.

Why should they not invite men of the highest authority in finance in their respective countries—men of such prestige, experience and honor that their agreement upon the amount to be paid, and upon a financial plan for working out the payments, would be accepted throughout the world as the most authoritative expression obtainable? Governments need not bind themselves in advance to accept the recommendations, but they can at least make possible such an inquiry with their approval and free the men who may represent their country in such a commission from any responsibility to foreign offices and from any duty to obey political instructions. In other words, they may invite an answer to this difficult and pressing question from men of such standing and in such circumstances of freedom as will insure a reply prompted only by knowledge and conscience. I have no doubt that distinguished Americans would be willing to serve in such a commission. If Governments saw fit to reject the recommendation upon which such a body agreed, they would be free to do so, but they would have the advantage of impartial advice and of an enlightened public opinion. Peoples would be informed, the question would be rescued from assertion and counter-assertion, and the problem put upon its way to solution.

I do not believe that any general conference would answer the purpose better, much less that any political conference would accomplish a result which premiers find it impossible to reach. But I do believe that a small group, given proper freedom of action, would be able soon to devise a proper plan. It would be time enough to consider forcible measures after

such an opportunity had been exhausted. Such a body would not only be expert but friendly. It would not be bound by special official obligations; it would have no animus and no duty but to find and state the truth. In a situation which requires an absence of technicality and immunity from interference, I hope that the way may soon be found for a frank discussion and determination of what is essentially an economic problem.

The United States has the most friendly and disinterested purpose in this matter, and wishes to aid in any practicable way. But it is idle to make suggestions which arouse false hopes and are so impracticable that they can not bear fruit. On the other hand, there lies open a broad avenue of opportunity if those whose voluntary action is indispensable are willing to take advantage of it. And, once this is done, the avenues of American helpfulness can not fail to open hopefully.

3. British-American Exchange on Reparation Inquiry

i. The British Secretary of Foreign Affairs to the British Chargé d'Affaires at Washington

(Communicated to the Secretary of State, October 13, 1923)

The information which reaches America will have acquainted the American Government with the extremely critical economic position that has arisen in Europe owing to failure to find any solution for the reparation problem, which daily becomes more acute as the financial and political condition of Germany grows worse. There does not appear to be among the European powers that unity of thought which either renders common action feasible or will be successful in finding an early solution. His Majesty's Government have during the past nine months made a series of proposals to their Allies for meeting these difficulties, none of which has been so fortunate as to meet with a measure of acceptance sufficient to bring about common action. And yet, without such action, not merely Germany, but Europe, appears to be drifting into economic disaster. In these circumstances His Majesty's Government have for long entertained the belief that the co-operation of the United States Government is an essential condition of any real advance toward settlement. America, by reason of her position and history, is more disinterested than any of the European powers. At the same time she is directly and vitally concerned with the solution of the European problem, if for no other reason, because in it is involved the question of the interallied debt.

When Mr. Hughes made his declaration in December last, both Great Britain and Germany made it clear that they would warmly welcome the proffered assistance; and whenever the suggestion has been revived it

has met with the hearty approval of His Majesty's Government; the French Government hitherto has taken a different view. This lack of unity is, so far as His Majesty's Government are aware, the sole reason why the proposal has not been proceeded with.

His Majesty's Government were already engaged in formulating an inquiry to the United States Government as to the manner in which, in the opinion of the latter, the united action, which is the common desideratum, could best be brought about when they read in the press yesterday morning a declaration, reported to have been made by President Coolidge, that the American Government rest on their proposal of December last. His Majesty's Government warmly welcome this declaration, and hope that they are justified in deducing from it that, if the European powers will join in such an inquiry, America will render the promised co-operation.

If His Majesty's Government have rightly interpreted the statement of the President, and if they may count upon an encouraging reception being given to such a proceeding, they will not hesitate to invite the immediate co-operation of their Allies in Europe in an invitation to the United States Government to assist in the proposed inquiry, by deputing a delegate, whether official or unofficial, to take part in it. If, on the other hand, it were proposed to hold such an inquiry although complete unanimity had not been forthcoming at this end, might His Majesty's Government and the majority of the Allies still hope for American co-operation? Alternatively, if it were proposed that such an inquiry should be intrusted to the Reparation Commission or to a body appointed by it, would America still be willing to participate?

It is in the firm belief that the American Government have it in their power to render a great service to the security and peace of the world that his Majesty's Government, speaking in the name of the whole British Empire as represented in the Imperial Conference now assembled in London, desire to associate themselves with the renewed proposal of the President, and they will be glad to receive from the American Government any suggestion that the latter may be disposed to offer in reply to the questions which I have ventured to put.

ii. Aide Mémoire of the Secretary of State to the British Chargé d'Affaires

DEPARTMENT OF STATE,
WASHINGTON, October 15, 1923.

In reply to the communication of His Majesty's Chargé d'Affaires of October 13, the Secretary of State desires again to express the deep interest of the United States in the economic situation in Europe and its readiness to aid in any practicable way to promote recuperation and a

re-establishment of economic stability. The Government of the United States has viewed with deep concern the lack, as His Majesty's Government expresses it, of that unity of thought on the part of the European powers essential to common action. The views of the Government of the United States as to the importance of agreement among the Allies and the relations of the Government of the United States to the question involved were set forth in the statement of the Secretary of State to which His Majesty's Government refers, and these views are still held. It is observed that His Majesty's Government states that Great Britain and Germany made it clear that the proffered assistance would be warmly welcomed by them and that His Majesty's Government has always heartily approved the suggestion, then made by the Secretary of State, whenever it has been revived, and that so far as His Majesty's Government is aware, the sole reason why the proposal has not been proceeded with has been lack of unanimity among the interested powers.

It is believed that present conditions make it imperative that a suitable financial plan should be evolved to prevent economic disaster in Europe, the consequence of which would be world wide. It is hoped that existing circumstances are propitious for the consideration of such a plan inasmuch as the abandonment of resistance on the part of the German Government will present a freer opportunity and an immediate necessity for establishing an economic program. The Government of the United States is, therefore, entirely willing to take part in an economic conference in which all the European Allies chiefly concerned in German reparations participate, for the purpose of considering the questions of the capacity of Germany to make reparation payments and an appropriate financial plan for securing such payments. It is deemed advisable, however, to emphasize the following points:

1. Confirming what was said by the Secretary of State in his statement of last December to which you refer, the Government of the United States has no desire to see Germany relieved of her responsibility for the war or of her just obligations. There should be no ground for the impression that a conference, if called, should have any such aim or that resistance to the fulfillment of Germany's obligations has any support. It should be evident that in the effort to attain the ends in view, regard must be had to the capacity of Germany to pay and to the fundamental condition of Germany's recuperation, without which reparation payments will be impossible.

2. Such a conference should be advisory; not for the purpose of binding Governments, who would naturally be unwilling to pledge their acceptance in advance, but to assure appropriate recommendations by a thoroughly informed and impartial body intent upon the solution of the difficult pending problems upon their merits.

3. The Secretary of State notes the observation in the communication of His Majesty's Government that the European problem is of direct and vital interest to the United States, "if for no other reason, because the question of the interallied debt is involved therein." The Government of the United States has consistently maintained the essential difference between the questions of Germany's capacity to pay and of the practicable methods to secure reparation payments from Germany, and the payment by the Allies of their debts to the United States, which constitute distinct obligations. In the statement of the Secretary of State, to which His Majesty's Government refers, it was said:

"The matter is plain enough from our standpoint. The capacity of Germany to pay is not at all affected by any indebtedness of any of the Allies to us. That indebtedness does not diminish Germany's capacity, and its removal would not increase her capacity. For example, if France had been able to finance her part in the war without borrowing at all from us, that is, by taxation and internal loans, the problem of what Germany could pay would be exactly the same. Moreover, so far as the debtors to the United States are concerned, they have unsettled credit balances, and their condition and capacity to pay can not be properly determined until the amount that can be realized on these credits for reparations has been determined.

"The Administration must also consider the difficulty arising from the fact that the question of these obligations which we hold and what shall be done with them is not a question within the province of the Executive. Not only may Congress deal with public property of this sort, but it has dealt with it. It has created a commission and, instead of giving that commission broad powers such as the Administration proposed, which quite apart from cancellation might permit a sound discretion to be exercised in accordance with the facts elicited, Congress has placed definite restrictions upon the power of the commission in providing for the refunding of these debts."

It is hardly necessary to add, as it has frequently been stated by the Government of the United States, that while the American people do not favor cancellation of the debts of the Allies to the United States or of the transfer to the people of the United States of the burden of Germany's obligations, directly or indirectly, the Government of the United States has no desire to be oppressive or to refuse to make reasonable settlements as to time and terms of payment, in full consideration of the circumstances of the allied debtors. It may be added that the establishment of sound economic conditions in Europe, the serious reduction of military outlays and the demonstration of a disposition of European peoples to work together to achieve the aims of peace and justice will not fail to have their

proper influence upon American thought and purpose in connection with such adjustments.

In further reply to the communication of His Majesty's Government, it may be said that the Government of the United States is not in a position to appoint a member of the Reparation Commission inasmuch as such an appointment can not be made without the consent of the Congress. The Secretary of State has no doubt, however, that competent American citizens would be willing to participate in an economic inquiry, for the purposes stated, through an advisory body appointed by the Reparation Commission to make recommendations in case that course after further consideration should be deemed preferable.

As to the further question, whether American co-operation in an inquiry for the purposes described in the communication of His Majesty's Government could be hoped for in case unanimity of the European powers could not be had, the Government of the United States must again express the view that the questions involved can not be finally settled without the concurrence of the European Governments directly concerned. Other Governments can not consent for them; and it would manifestly be extremely difficult to formulate financial plans of such importance and complexity without the participation of those whose assent is necessary to their fulfillment. In view of the existing exigencies it is hoped that the project of such an inquiry as is contemplated of an advisory nature, might commend itself to all these powers and that the question suggested will not arise. But if it should arise, through lack of unanimity on the part of the European powers, the Government of the United States must reserve decision as to its course of action in order that the developments in such a contingency may be fully considered and that course taken which will give best promise of ultimate success in securing the desired end of re-establishing the essential conditions of European peace and economic restoration. To the attainment of that end, it may be repeated, the Government of the United States desires to lend its assistance in any manner that may be found feasible.

4. Communiqué of the French Foreign Office, October 28, 1923

The French Government in its reply to the British Government concerning the creation of a committee of experts, bases its authority upon Par. 7, Annex II, to Part VIII of the treaty of Versailles, permitting the constitution of such committees. This paragraph empowers the commission to nominate all functionaries, agents and employees necessary to the execution of its functions, to create committees, the members of which are not necessarily chosen from the commission, and to give such functionaries, agents and committees full powers and authority.

Thus the Reparation Commission, acting within the limits of its powers,

may designate such experts, the help of whom appears necessary in order to obtain the information it requires.

Thus this in no way implies on the part of the commission any abandonment of its powers, which it retains integrally; the information, advice and recommendations it would receive from such a committee would have no other object than to enlighten it, as in the case of the experts now employed by the commission, which has the authority to increase their number.

On the other hand, Par. 9, Annex II to Part VIII of the treaty permits the commission to hear all arguments and testimonials presented by Germany upon any questions relating to the latter's capacity for payment. The above paragraph interprets that part of Art. 234 in which it is said that the commission must study from time to time the resources of Germany, and, after having given the representatives of that country equitable facilities to be heard, has full powers to extend the period or modify the methods of payments fixed by Art. 233.

Thus Germany, although not represented upon the committee of experts, may be heard by them and present all arguments and evidence, the latter not necessarily from German, but also neutral and even allied sources. The experts, or a group of experts, can in no case infringe upon the powers of the commission, which are fixed by Art. 234, which specifically states that the commission alone can extend delays and modify the form of payments to be made in conformity with Art. 233.

Art. 233 itself stipulates that in the event Germany should fail to meet her obligations and payments as scheduled by the commission, all the balance remaining unpaid must be carried forward to payments to be received in following years, according to decisions of the commission. But with this the powers of the commission end. It can agree to no further decrease without special authorization from the various Governments represented on the commission.

Furthermore, according to Art. 233, the Allied and Associated Governments may even intervene in the settlement of the yearly balances remaining unpaid, and, although the commission has the authority to carry such balances to following years it can not cancel such debts, such action being determined by the Allied and Associated Governments.

The net results of the interpretations of the above text are that, although the commission may determine the methods of payment of German debts, extend the period and modify the methods of such payments, it can not make any reduction whatsoever, such reductions only being granted by the unanimity of the creditor nations.

Thus France will not accept that a committee of experts make any changes in the amount of the debt as fixed May 1, 1921, and will give its consent to no reduction whatsoever in the amount of the obligations of Germany as determined by the Reparation Commission in May, 1921.

5. Requests that Americans Participate in Work of Committees of Experts

(Reprinted from Department of State Releases)

i. The President of the Reparation Commission to the American Unofficial Observer

Paris, December 5, 1923.

My dear Mr. Logan:

I have just had a conversation with our colleague, Monsieur Delacroix, upon the observations which you have exchanged. In order to give you more definite information and to clear up points which might leave doubts in your mind, we desire to furnish you with more precise details.

The first committee of experts will endeavor to find: (*a*), the means of balancing the budget; (*b*), the measures to be taken to stabilize the currency. Concerning the stabilization of the currency the experts would be invited first of all to determine the conditions to be realized in order that a currency could be stabilized and then the measures to be progressively taken so as to realize all of these conditions.

As the stabilization of the currency necessitates budget equilibrium the experts would similarly be invited to study in detail the receipts and the expenditures of the Reich as well as of the different states.

The Reparation Commission would ask the experts to give it in all sincerity their professional opinion on the questions submitted to them.

Monsieur Delacroix and I hope that it may lead your Government to acquiesce in the acceptance of invitations by American experts to participate in the labors of the committees. Furthermore, if you accept this suggestion I am quite prepared to submit it to the Reparation Commission.

Accept, etc.

(Signed) Louis Barthou

ii. The German Ambassador to the Secretary of State

German Embassy,
Washington, D.C., December 7, 1923.

The Honorable, the Secretary of State, Washington, D.C.:
Mr. Secretary of State,

Under instructions received from my Government I have the honor to inform your Excellency as follows:

The Reparation Commission having decided to appoint two commissions, of which one is to examine German capital abroad and the other the financial situation and currency conditions of Germany, the German Government is of the opinion that through the proceedings of

the latter commission important progress could be made toward the solution of the problems underlying economic recovery. My Government holds the view that this aim can only be achieved if the United States co-operates in said commission.

It would therefore be much appreciated by my Government if the Government of the United States were to agree to the participation of an American expert in said commission.

Accept, Mr. Secretary of State, the renewed assurance of my highest consideration.

(Signed) Dr. Otto Wiedfeldt

iii. The American Unofficial Observer to the President of the Reparation Commission

Paris, December 12, 1923.

My dear Monsieur Barthou:

I have not failed to inform my Government of your letter of December 5th. My Government is deeply interested in the economic recuperation of Europe and is gratified to learn of the proposal for the establishment by the Reparation Commission of two committees of experts for the purpose stated. My Government notes the statement in your letter that the first committee of experts will endeavor to find: (*a*), the means of balancing the budget of Germany, and (*b*), the measures to be taken to stabilize its currency; and that to this end the experts will be invited to determine the conditions to be realized in order that a currency can be stabilized and the measures to be progressively taken so as to realize all of these conditions, and also that they will be invited to study in detail the receipts and expenditures of the Reich as well as of the different states.

It has been made clear in our interviews that the Government of the United States is not in a position to be represented on these committees, but my Government believes that the proposed inquiries will be of great value and it views with favor the acceptance by American experts of invitations to participate in the work of the committees.

It is hoped that through these committees practicable and just solutions of the pending problems may be found.

Accept, etc.,

(Signed) James A. Logan

II. COMMITTEES OF EXPERTS

The Reparation Commission on November 30, 1923, unanimously adopted the following resolution:

> In order to consider, in accordance with the provisions of Art. 234 of the treaty of Versailles, the resources and capacity of Germany, and after giving her representatives a just opportunity to be heard, the Reparation Commission decides to create two committees of experts belonging to Allied and Associated countries.
>
> One of the committees would be intrusted with considering the means of balancing the budget and the measures to be taken to stabilize the currency.
>
> The other would consider the means of estimating the amount of exported capital and of bringing it back to Germany.

It will be noticed that this resolution does not specify the period for which German capacity to pay is to be studied. The original French motion of November 13, had specified that the expert studies should "furnish the Reparation Commission with the data for the decision by which German payments for the three years, 1924, 1925 and 1926, would be fixed." On the other hand, the British delegate had proposed that the studies should include "without fear or partiality all the causes which have brought about the desperate situation in which Germany finds itself," thus opening the way to an inquiry on the occupation of the Ruhr. The resolution as voted left both points out of account.[1]

The President of the United States on December 11 announced the willingness of that Government that Americans serve on the expert committees. The following day the notes between the President of the Reparation Commission and the American unofficial observer were given to the press. These notes made it clear that the Reparation Commission was at liberty to select experts from nationals of the "Allied and Associated countries," as proposed in the resolution. The choice of experts occupied the commission's time until December 27, when the constitution of the committees was announced as follows:

First Committee—Balance of the German budget and stabilization of German money

[1] *Le Temps*, December 2, 1923, p. 1.

United States—General Charles G. DAWES, president of the Central Trust Company, Chicago;
Owen D. YOUNG, vice-president of the General Electric Company, New York.
Great Britain—Sir Robert Molesworth KINDERSLEY, C. B. E., president of Lazard Bros., Ltd., director of the Bank of England, governor of the Hudson's Bay Company, president of the National Savings Committee;
Sir Josiah Charles STAMP, K. B. E., D. Sc., F. C. I. S., secretary of the Nobel Industries, Ltd., and formerly assistant secretary of the Board of Inland Revenue.
France—Jean PARMENTIER, formerly director of the general movement of funds in the Ministry of Finance, manager of the Crédit Foncier de France;
Edgard ALLIX, professor of the faculty of law, Paris.
Italy—Dr. Alberto PIRELLI, industrialist;
Prof. Federico FLORA, professor of the science of finance, University of Bologna.
Belgium—Baron Maurice HOUTART, member of the Chamber of Representatives, banker;
Emile FRANCQUI, minister of state, vice governor of the General Society of Belgium.

Second Committee—Inquiry on German capital abroad

United States—Henry M. ROBINSON, president of the First National Bank of Los Angeles, Calif.
Great Britain—Rt. Hon. Reginald McKENNA, P. C., president of the Midland Bank, formerly Chancellor of the Exchequer.
France—André LAURENT-ATTHALIN, director of the Banque de Paris et des Pays-Bas.
Italy—Dr. Mario ALBERTI, vice director general of the Credito Italiano.
Belgium—Albert-Edouard JANSSEN, director of the National Bank of Belgium.

The first committee met at Paris on January 14, and the second committee on January 21. General Dawes was made president of the first committee, and Mr. McKenna of the second. Mr. Dawes' introductory speech struck a key-note to which both committees responded throughout their work and which set an

attitude to which the governments put themselves out to conform in the interval between the beginning of the inquiries and the completion of the reports.

1. Installation of the Committees

Official Communiqué No. 1

The Committee intrusted with considering the means of balancing the German budget and the measures to be taken to stabilize the currency, which the Reparation Commission created by decision of the 30th November last, met this morning for the first time, at 11 o'clock, at the Astoria.

The Chairman of the Reparation Commission, M. Louis Barthou, welcomed the members of this committee in the following terms:

Gentlemen:

The Reparation Commission, in welcoming you to your official functions, desires both to emphasize the importance of the task assigned to you and to thank you for having accepted it, some of you coming from so far, in a spirit of responsiveness and unselfishness which is universally appreciated.

We do not expect of you the miracle of a sudden solution of the reparation problem, but we confidently hope that your competence, your experience and your authority will contribute to hasten the results to which our efforts are directed. The Treaty of Versailles is our charter, as it will be yours, and it is within the framework of that treaty, under Article 234, that you will pursue your inquiry in full independence and with signal impartiality.

The balancing of the budget and the stabilization of the currency, which are closely connected, are the preliminary and essential conditions for the settling of reparation. We place at your disposal the reports drawn up by our interallied services and National Delegations, together with all documents you may require. You will be free to choose your own procedure. Under the Treaty, Germany is entitled to a just opportunity of being heard, and you will hear her representatives in the manner you may think most suitable. In the interest of all, we earnestly hope that her Government and administrative services will facilitate your work, which is already so difficult and complex.

Some solution must be found. It is not only Germany and her creditors who are interested in the reparation problem; it may be said without exaggeration that the peace of the whole world depends upon its settlement.

Gentlemen, we ask you courageously to set to work, to produce the opinions which the Commission has unanimously demanded of you. Take your time, but let it be no longer than is necessary. We expect much of you. The whole Commission rejoices that American citizens

have come to co-operate with the Allied experts; this will greatly reinforce the authority of the Committee's findings.

I ask General Dawes, on behalf of the Reparation Commission, to preside over your labors; his well-known competence and that energy which is known to legend, will help you to bring them to a speedy and successful conclusion.

Address of Charles G. Dawes, President of the First Committee, January 14, 1924

The difficulties involved in the determination of the Allied policy, both in time of war and in time of peace, are little realized by the average citizen in all countries. To him, it seems strange that eventual common sense agreements which, in times of emergency characterize Allied policy, come about so slowly. He does not realize the barriers which must first be beaten down, erected by national pride, and the pride and selfish interest of different Allied officials, whose powers are affected by any act of coercive interallied co-ordination, and the incessant misrepresentations and intolerable interjections of those foul and carrion-loving vultures—the nationalistic demagogues of all countries—who would exploit their pitiful personalities out of a common misfortune.

Let me illustrate. Napoleon's 64th maxim of war was "Nothing in war is more important than a central command—under one chief." This great principle was realized and accepted at the beginning of the war by all the military authorities in the world, and yet, after nearly four years of warfare and the unnecessary loss of millions of lives, and hundreds of millions in material wealth, the Germany army on March 21, 1918, struck at the junction of the British and French armies and broke through because of the lack of a central command controlling the proper disposition of reserves.

The British army was forced back upon its line of communication toward the channel ports. The French army was forced back upon its line of communication toward Paris, and a gap was opened. Then it was that the Allies, facing the abyss, yielded part of their sovereign power for the time being to the central command under Foch, which paved the way to the Allied victory.

What brought about the complete Allied co-operation in time of war? Nothing but overwhelming emergency! And when victory came and the treaty of Versailles was signed, what again have we seen, but those same natural forces and immutable laws of human nature which prevented an earlier agreement upon a central Allied command in time of war, operating to prevent a common Allied plan in time of peace.

What is the question of to-day? Upon what does the success of this committee depend? Upon the powers of persuasion? Primarily, no! Upon honesty and ability? Primarily, no! It depends chiefly upon

whether, in the public mind and conscience of the Allies and of the world, there is an adequate conception of the great disaster which faces each ally and Europe unless common sense is crowned king.

Does this conception exist? We do not know, but we shall know. To this knowledge of whether this conception exists, the result of our work and the action of the Reparation Commission thereon will perhaps be the final contribution.

As an American citizen, invited to this place by the Reparation Commission, I can speak neither for the Government of the United States nor for the American people, but as an individual I can say that I have read, in shame and humiliation, the outpourings of the American nationalistic demagogues who undertake to lecture Europe in order to lift themselves into some petty office or maintain political popularity.

Surely I have as much right as they to express my individual opinion of the attitude held by the great inarticulate mind and conscience of my people. Mr. Young and I will endeavor to express it in our actions upon this committee. We come, humble in opinion, knowing that there is no barrier against the acquiring of knowledge like the pride of preconceived opinion. We come, knowing that you know much more about your own affairs than we do. We come, realizing the sacrifices which you have made for the victory to which our people also contributed and of which we share the benefits.

We know that 1,385,000 of the flower of France's youth, 946,000 of Great Britain's youth, 460,000 of Italy's youth, 40,000 of Belgium's youth, and 127,000 of Serbia's youth, together with the precious bodies of our own American youth, lie buried close together here, across the sea. We know that from their sacrifice has come the great desire on the part of all peoples to make it worth while for their sakes, as well as for those who live and are to live hereafter in the world.

We come, only wanting to be helpful to you who, with superior knowledge and longer experience, will take the initiative in the search for a common sense agreement.

We come, determined that nothing shall prevent our full usefulness, if we have any, to you, in a work which is yours.

In the last war I was the Chief of Supply and Procurement for the American Expeditionary Forces, under command of General Pershing. In the vanguard of our army I came with empty hands. Our great commander General Pershing, at the date of our entry into the war, was faced with the necessity of building a line of communication and other installations which would care for his eventual army.

During the first seven months from the time we landed in France, there were shipped to us from America only 357,000 ship tons of supplies and yet, when the Americans sailed back to the United States, it had required over 17,000,000 tons, of which 10,000,000 had been furnished chiefly by France

and Great Britain, already stripped of resources by three years of devastating warfare.

When we came, we stood empty-handed, reaching to our friends for needed supplies. You may be sure that we did not start to tell our Allies what great men we were and how much we knew. At their feet, humble in opinion, out of their larger experience, we tried to learn the lessons of war emergency.

Great Britain furnished us ships to transport the bulk of our troops; we fired only French ammunition from French guns; our artillery was carried into action by French horses; we flew French airplanes; at the beginning, it was Belgian locomotives which carried our materials. Italy furnished us men to work upon our lines of communication. All of our Allies, from their depleted stocks, helped us with a generosity to express gratification for which I find no adequate terms, but there was one supply in which our great Government did not fail, and that was in the supply of two million splendid men, who, under General Pershing, marched and fought with your heroic troops in the final great and victorious struggle.

With these memories of old associations, is it surprising that I feel as if I had come among friends? With the confidence and belief in each other which we had during the war and the love which has come from past associations in common difficulties; with the belief that in the Providence of God, humanity is facing brighter days, and with the prayer that however little, as individuals, may be our contribution to better things, it will be all we have, let us approach our common work.

Now, let us consider for a minute the situation here as it is confronted by two American business men who some three weeks ago were invited by the Reparation Commission to give it detailed attention in connection with the proposed work which we start to-day. Like other citizens of our own and other countries, our information consisted of what we had read in the newspapers and gained from conversation with others presumably better informed.

We had seen the Allies, finally really united under a single command, obtain a military victory which we had supposed was the precursor of a better world. For five years, since that time and the signing of the treaty of Versailles,we had seen the Allies losing the unity of understanding which is always essential to real peace and progress. We had come to know—in common with the citizens of all nations—that at last that lack of power to agree upon a common attitude and common action had brought all Europe to a most critical and dangerous situation.

Finding ourselves then, as true American citizens, thus suddenly called upon by the Reparation Commission, we devoted ourselves to making our own diagnosis of our environments with the advantage—if it may be called such—of access to expert information.

This is no time to mince words. What, to-day, at the inception of the work of this committee, have we found? In the first place, we see an impenetrable and colossal fog-bank of economic opinion, based upon premises of fact, which have changed so rapidly as to make the bulk of them worthless, even if they were in agreement. With all due respect to the great ability of those experts who have wandered through this gloomy labyrinth, they could not have failed to come out in opposite directions. They were confronted with the necessity of finding stable conclusions where no conditions were stable. If, in their computations designed to clarify the mind, they dealt with the mark, the next week the mark was something else; if they dealt with the dollar, the pound, the French or Belgian franc or the Italian lira, there was one value in exchange for each, and another in internal purchasing power; if they dealt with gold there were values in pre-war gold and postwar gold to be considered. In general we fail to find much value in economic arguments based upon what ought to be instead of what is—based, in other words, upon a constantly changing status quo.

In the meantime, while these immense libraries—for they can be called by no other name—of legal arguments, of more or less obsolete statistics and of economic discussion, were being laboriously compiled for five years, the foundations of economic Germany have well-nigh crumbled away, and with them, the productivity of Germany.

Again, as the world has seen the economic life of Germany ebbing away, the credit of all the European Allies has felt a preliminary shock, because the world realizes that if the German people lose their capacity to work, Germany loses the capacity to pay those reparations which are so great an element in European solvency.

It would seem that the situation, as it has developed in the minds of your American members of this committee, must have been regarded in much the same way by the Reparation Commission, to whom this committee of practical men, free from political pressure, owes its creation. Realizing that the house was afire, they proposed to find some water to put it out, without the further use of mathematics involving the fourth dimension.

By their instructions, they enable us to start our work on the basis of a status quo. We are not asked to determine the legality of the occupation of the Ruhr; we are not asked to declare the political effects of this or that prospective act of common sense; we are not asked to give our opinion upon those things which the politicians of all countries have interjected into a situation which primarily demands, for its proper consideration, business minds, uninfluenced by political ambition or thought of personal consequences.

Upon our report to the Reparation Commission of a plan for the stabil-

ization of German currency and the balancing of the German budget, it is for them, not for us, to be concerned with political effects.

The more I have talked with those here who are nearest the situation, the more do I realize the great wisdom which the Reparation Commission has shown in defining the purposes of our convocation, "in order to consider, in accordance with the provisions of Art. 234 of the treaty of Versailles, the resources and capacity of Germany," we are "intrusted with considering the means of balancing the budget and the measures to be taken to stabilize the currency." If, without fear of favor, we suggest a plan for the stabilization of the German currency and the balancing of the German budget, which the Reparation Commission deems fit to ratify, we will at least have done this: we will have suggested that which has enabled the Reparation Commission to start Germany toward productivity, and the re-establishment of German productivity is the starting point of European prosperity.

As the economic processes of Germany under a stable currency and with a balanced budget are revived, there will be demonstrated the capacity of Germany to pay. Basic and controlling facts will then first appear. Any common sense individual can estimate the distance a well man can run. Fifty medical experts, gathered around the bedside of a dying patient, will give fifty different estimates of how far he can run if he gets well. The Reparation Commission and the world, upon the question of Germany's capacity to pay, have thus far been listening to the medical experts. Let us first help Germany to get well.

Now that we are members of a committee having a definite and authoritatively defined object in view, we are less concerned, for the moment, with the present capacity of Germany to pay, than with the present capacity and courage of this committee to act. What is the use of deferring plain statement on this committee? Why waste time in formalities and meaningless courtesies and conventionalities? Let me make, thus early, one practical suggestion:

Under President Harding, I established the system of executive control set up by executive order under which the first budget of the United States was prepared, in accordance with our recent budget legislation. I hesitate to call myself an expert on budget matters, lest I put my reputation for common sense under suspicion: but how could any one, expert or non-expert, suggest anything worth while about a German budget if the money collected through taxes and dispersed under the budget would not buy or pay for anything?

The first step which we should take, it seems to me, is to devise a system for stabilizing Germany's currency, so that we can get some water to run through the budget-mill. Let us build the mill after we find the stream to turn its wheels.

III. DAWES COMMITTEE REPORT

LETTER FROM THE CHAIRMAN TO THE REPARATION COMMISSION

April 9th, 1924.

Your Committee of Experts has unanimously adopted a report upon the means of balancing the budget of Germany and the measures to be taken to stabilize its currency, which I now have the honor to submit.

Deeply impressed by a sense of its responsibility to your Commission and to the universal conscience, the Committee bases its plan upon those principles of justice, fairness and mutual interest, in the supremacy of which not only the creditors of Germany and Germany herself, but the world, has a vital and enduring concern.

With these principles fixed and accepted in that common good faith which is the foundation of all business, and the best safeguard for universal peace, the recommendations of the Committee must be considered not as inflicting penalties, but as suggesting means for assisting the economic recovery of all the European peoples and the entry upon a new period of happiness and prosperity unmenaced by war.

Since, as a result of the war, the creditors of Germany are paying taxes to the limit of their capacity, so also must Germany pay taxes from year to year to the limit of her capacity. This is in accord with that just and underlying principle of the Treaty of Versailles, reaffirmed by Germany in her note of May 29th, 1919, that the German scheme of taxation must be "fully as heavy proportionately as that of any of the Powers represented on the Commission". More than this limit could not be expected, and less than this would relieve Germany from the common hardship and give her an unfair advantage in the industrial competition of the future. This principle the plan embodies.

The plan has been made to include flexible adjustments which, from the very beginning, tend to produce the maximum of contributions consistent with the continued and increasing productivity of Germany. The conservative estimates of payments to be made in the near future are dictated by business prudence in outlining the basis of a loan, and should not destroy perspective as to the effects to be registered in the aggregate of eventual payments, which will annually increase. With normal economic conditions and productivity restored in Germany, most hopeful estimates of amounts eventually receivable will be found to be justified. Without such restoration, such payments as can be obtained will be of little value in meeting the urgent needs of creditor nations.

To ensure the permanence of a new economic peace between the Allied

Governments and Germany, which involves the economic readjustments presented by the plan, there are provided the counterparts of those usual economic precautions against default recognized as essential in all business relations involving expressed obligations. The existence of safeguards in no way hampers or embarrasses the carrying out of ordinary business contracts. The thorough effectiveness of these safeguards should not embarrass the normal economic functioning of Germany, and is of fundamental importance to her creditors and to Germany.

Great care has been taken in fixing conditions of supervision over Germany's internal organization so as to impose the minimum of interference consistent with proper protection. This general plan, fair and reasonable in its nature, if accepted, leads to an ultimate and lasting peace. The rejection of these proposals by the German Government means the deliberate choice of a continuance of economic demoralization, eventually involving her people in hopeless misery.

In the preparation of this report, the Committee has carefully and laboriously covered the broad field of investigation. It has had the constant co-operation of able staffs of experts, gathering information, digesting it and presenting it. It conducted, on the ground, an examination of the officials of the German Government and representatives of its labor, agriculture and industry. It received from the German Government and its representatives voluminous and satisfactory answers in response to its written inquiries. In connection with various features of its report, both for gathering information and for advice, it has called to its assistance outside experts of international reputation. The published reports and statements of economists of world-wide standing have been in its hands. It has had the benefit of the accumulated information heretofore gathered by your Commission.

In its work, the full Committee has held, since January 14th, 1924, 54 meetings; the sub-committee on the stabilization of the currency, composed of Monsieur Parmentier, Sir Robert Kindersley, Monsieur Francqui and Professor Flora, assisted by Mr. H. M. Robinson, under the chairmanship of Mr. Owen D. Young, has held 81 meetings; and the sub-committee on the balancing of the budget, composed of Professor Allix, Baron Houtart and Monsieur Pirelli, under the chairmanship of Sir Josiah Stamp, has held 63 meetings. They have had the assistance of Mr. Andrew McFadyean, the General Secretary. Again, the time of the Committee, outside of that consumed by the meetings, has been given largely to investigation and study.

In speaking of my colleagues and as bearing upon the value of this report, I feel that I should make it known to your Commission and to the world, that their governments have in no case limited their complete independence of judgment and action, either before or after their appoint-

ment by you. Limited only by the powers granted by your Commission, each has performed his arduous and responsible work as a free agent. These men, searching for truth and advice thereon, were answerable only to conscience. In granting this freedom, the governments have but followed your own spirit and intent in constituting the Committee, but in so doing, they have paid the highest tribute which governments can bestow: complete confidence in a time of crisis in human affairs. In their vision—in their independence of thought—and above all, in their spirit of high and sincere purpose, which rises above the small things over which the small so often stumble, my colleagues have shown themselves worthy of this trust. That their work, which I now place in your hands, may assist you in the discharge of your great responsibilities, is their prayer, and the knowledge hereafter, that it has done so, will be their full reward.

(Signed) CHARLES G. DAWES,
Chairman.

REPORT FROM THE FIRST COMMITTEE OF EXPERTS

SUMMARY OF PART I[1]

I. The Attitude of the Committee

(*a*) The standpoint adopted has been that of business and not politics.
(*b*) Political factors have been considered only in so far as they affect the practicability of the plan.
(*c*) The recovery of debt, not the imposition of penalties, has been sought.
(*d*) The payment of that debt by Germany is her necessary contribution to repairing the damage of the war.
(*e*) It is in the interest of all parties to carry out this plan in that good faith which is the fundamental of all business. Our plan is based upon this principle.
(*f*) The reconstruction of Germany is not an end in itself; it is only part of the larger problem of the reconstruction of Europe.
(*g*) Guarantees proposed are economic, not political.

II. German Economic Unity

For success in stabilizing currency and balancing budgets, Germany needs the resources of German territory as defined by the Treaty of Versailles, and free economic activity therein.

III. Military Aspects. Contingent Sanctions and Guarantees

(*a*) Political guarantees and penalties are outside our jurisdiction.
(*b*) The military aspect of this problem is beyond our terms of reference.
(*c*) Within the unified territory, the plan requires that, when it is in effective operation:
1. if any military organization exists, it must not impede the free exercise of economic activities;
2. there shall be no foreign economic control or interference other than that proposed by the plan.

(*d*) But adequate and productive guarantees are provided.

IV. The Committee's Task

(*a*) Stabilization of currency and the balancing of budgets are interdependent, though they are provisionally separable for examination.

[1]The summary is furnished only for the convenience of the reader. Parts I and II and the Annexes are the only authoritative statements of the plan.

(*b*) Currency stability can only be maintained if the budget is normally balanced; the budget can only be balanced if a stable and reliable currency exists.

(*c*) Both are needed to enable Germany to meet her internal requirements and Treaty payments.

V. Economic Future of Germany

(*a*) Productivity is expected from increasing population, technical skill, material resources and eminence in industrial science.

(*b*) Plant capacity has been increased and improved since the war.

VI. Currency and a Bank of Issue

(*a*) All classes will benefit from stabilized currency, especially labor.

(*b*) Under present conditions, Rentenmark stability is only temporary.

(*c*) A new Bank is set up or the Reichsbank reorganized.

(*d*) The main characteristics of the Bank will be:

(1) to issue notes on a basis stable in relation to gold, with an exclusive privilege;

(2) to serve as a Bankers' Bank, establishing the official rate of discount;

(3) to act as the Government Banker, but free of Government Control;

(4) advances to Government to be strictly limited;

(5) to hold on deposit Reparation payments;

(6) the capital of the Bank will be 400 million gold marks;

(7) it will be directed by a German President and Managing Board, who can be assisted by a German consultative Committee;

(8) the due observance of its statutes will be further safeguarded by a General Board, of which half of the members, including a Commissioner, will be foreign.

VII. Budget and Temporary Reparation Relief

Balancing the German budget requires:

(*a*) Full economic and fiscal sovereignty, subject to the supervision provided for in this report;

(*b*) a stable currency;

(*c*) temporary relief from charges on the budget for Treaty obligations;

(*d*) such relief not to suspend essential deliveries in kind.

VIII. The Basic Principles of Germany's Annual Burden

(*a*) Treaty obligations and continuity of balanced budgets:

(1) Balancing the budget does not entail merely provision for internal administrative expenditure.

(2) Germany must also provide within the utmost limit of her capacity for her external Treaty obligations.
(3) The budget can be balanced without necessarily dealing with the total capital debt of Germany.
(4) It cannot be continuously balanced, unless the annual charge is fixed for a considerable period, on a basis clearly prescribed in advance.

(*b*) Commensurate Taxation:
(1) Government internal debt has been practically extinguished by the depreciatiou of the currency.
(2) New debt charge ought to be met, commensurate with the burden of the French, English, Italian and Belgian taxpayer.
(3) The Treaty recognizes this principle.
(4) It is morally sound.
(5) It is economically just in its influence on costs of production.
(6) This principle has been applied to the full limit of practicability.

(*c*) Allies' share in Germany's prosperity:
(1) Germany's creditors must share in the improvement in Germany's prosperity.
(2) This will be secured by an index of prosperity.

(*d*) There is an important difference between the German's capacity to pay taxes and Germany's capacity to transfer wealth abroad.

IX. Normal Resources from Which Payments are Made

Germany will pay Treaty charges from three sources:—A, Taxes; B, Railways; C, Industrial debentures.

A. From her ordinary budget:
(1) 1924–25 Budget may be balanced if it is free from Peace Treaty charges.
(2) 1925–26 Budget receiving 500 million gold marks from special Sources, may pay that sum for reparation.
(3) 1926–27, 110 million gold marks.[1]
(4) 1927–28, 500 million gold marks.[1]
(5) 1928–29, 1,250 million gold marks. This is a considered a normal year and a standard payment; thereafter additional payments will be made, depending on prosperity.

B. From Railways:
(1) Railway bonds—

(*a*) eleven milliards of first mortgage railway bonds against a capital cost of twenty-six milliards will be created for reparations;

[1] Subject to addition or reduction in certain contingencies.

(*b*) these bonds bear 5 per cent. interest and 1 per cent. sinking fund per annum;

(*c*) in view of reorganization, interest is accepted as follows:

1924–25: three hundred and thirty million gold marks;
1925–26: four hundred and sixty-five million gold marks;
1926–27: five hundred and fifty million gold marks;
1927–28 and thereafter: six hundred and sixty million gold marks.

Behind the Bonds, there will be created:

2 milliards of preference shares to be reserved for sale to the public and
13 milliards of common stock.

¾ of the proceeds of the preference shares will be applied, as required, to the payment of debt and for capital expenditure of the railways. The remaining 500 milliards of preference shares and all the common shares go to the German Government.

(2) Transport Tax.

After 1925–26, 290 million gold marks per annum for reparation, and balance to German Government.

C. Industrial debentures:

(1) Five milliards of industrial debentures are provided for reparation.
(2) The resulting charge on industry is less than that existing before the war and now wiped out by depreciation.
(3) These bonds bear five per cent. interest and one per cent. sinking fund, *i.e.*, 300 million gold marks per annum.
(4) Pending economic restoration, interest and sinking fund are accepted as follows:

First year.—Nothing.
Second year.—One hundred and twenty-five million gold marks.
Third year.—Two hundred and fifty million gold marks.
Thereafter.—Three hundred million gold marks.

X. Summary of Provision for Treaty Payments

(*a*) 1. *Budget Moratorium Period*

First year.—From foreign loans and part interest on railway bonds.

Total of 1,000 million gold marks.

Second year.—From part interest on railway bonds and on industrial debentures, budget contribution, through sale of 500 million gold mark railway shares.

Total of 1,220 million gold marks.

2. *Transition Period*

Third year.—From interest on railway bonds and on industrial debentures, from transport tax and from budget.

Total of 1,200 million gold marks (subject to contingent addition or reduction of 250 million gold marks).

Fourth year.—From interest on railway bonds and on industrial debentures, from transport tax and from budget.

Total of 1,750 million gold marks (subject to contingent addition or reduction of 250 million gold marks).

3. *Standard Year*

Fifth year.—From interest on railway bonds and on industrial debentures, from transport tax and from budget.

Total of 2,500 million gold marks.

Thereafter, 2,500 millions plus a supplement computed on the index of prosperity.

Interest on the securities, but not the proceeds of their sale, is included in these figures.

(*b*) The first year will begin to run from the date when the plan shall have been accepted and put into effective execution.

XI. Inclusive Amounts and Deliveries in Kind

(*a*) The above sums cover all amounts for which Germany may be liable to the Allied and Associated Powers.

(*b*) Deliveries in kind are to be continued, but are paid for out of balances in the Bank.

XII. How the Annual Payments are Made by Germany

(*a*) The amounts will be raised in gold marks and paid into the Bank.

(*b*) These payments cover Germany's annual obligation.

XIII. How the Payments are Received by the Creditors

(*a*) Germany's creditors will use these moneys in Germany or convert them into foreign currencies.

(*b*) Experience will show the rate and extent to which the conversion can safely take place.

(*c*) Danger to stability through excessive remittances is obviated by a Transfer Committee.

(*d*) Sums not remitted accumulate, but with a limitation of amount.

XIV. Guarantees, in Addition to Railway and Industrial Bonds

(*a*) The followiug revenues are pledged as collateral security for budget contributions and other payments:—

(i) Alcohol.
(ii) Tobacco.
(iii) Beer.
(iv) Sugar.
(v) Customs.

(*b*) The yield of these revenues is estimated to be substantially in excess of required payments.

(*c*) The excess is returned to the German Government.

XV. External Loan—Its Conditions and Purpose

Foreign loan of 800 million gold marks meets a double purpose:

(*a*) Requirements of gold reserve of the new Bank.

(*b*) Internal payments for essential Treaty purposes in 1924–25.

XVI. Organization

The Organization consists of:

(*a*) A Trustee for railway and industrial bonds:

(*b*) Three Commissioners of (1) railways, (2) the Bank, (3) Controlled Revenues;

(*c*) An Agent for Reparation Paymeuts, who will co-ordinate the activities of the above and will preside over the Transfer Committee.

XVII. The Nature of the Plan

(*a*) The plan is an indivisible unit.

(*b*) The aim of the plan is:

(1) to set up machinery to provide the largest annual payments from Germany;

(2) to enable maximum transfers to be made to Germany's creditors;

(3) to take the questiou of "what Germany can pay" out of the field of speculation and put it in the field of practical demonstration.

(4) To facilitate a final and comprehensive agreement upon all the problems of reparations and connected questions, as soon as circumstauces make this possible.

REPORT OF THE FIRST COMMITTEE OF EXPERTS

We were invited by the Reparation Commission, by decision of the 30th November, 1923, to "consider the means of balancing the budget and the measures to be taken to stabilize the currency" of Germany.

We have been in continuous session since January 14th, 1924, in Paris, except for one fortnight spent in Berlin.

We have called in to assist us eminent technical advisers on the various questions which have been under consideration, and have been in touch with representative German opinion.

We have the honor to present the following report, which states the unanimous conclusions formed as a result of our studies and inquiries.

Part I of this report states our conception of our task, our conclusions, and the broad outline of our plan.

Part II indicates the considerations which guided us to our conclusions, in particular so far as they result from certain aspects of the present financial and economic condition of Germany which is here described.

Part III consists of a series of Annexes which give the technical detail of our several proposals, and should be read as a supplement to the respective portions of Part I.

PART I

THE COMMITTEE'S CONCLUSIONS AND SCHEME

I. The Attitude of the Committee

We have approached our task as business men anxious to obtain effective results. We have been concerned with the technical, and not the political, aspects of the problem presented to us. We have recognized indeed that political considerations necessarily set certain limits within which a solution must be found if it is to have any chance of acceptance. To this extent, and to this extent only, we have borne them in mind.

The dominating feature of the German Budget is Germany's obligation to the Allies under the Treaty of Versailles. We have been concerned with the practical means of recovering this debt, not with the imposition of penalties and the guarantees which we propose are economic and not political. At the same time it is no ordinary debt with which we deal, for Germany suffered no appreciable devastation, and her primary moral obligation is toward those who have suffered so severely through the war.

As regards past history, it has not seemed necessary to establish the causes, nor the responsibility for those causes, which have operated to produce the present state of German finances and currency, except in so far as a recognition of their character is required for the prescription of remedies.

Finally, convinced as we are, that it is hopeless to build any constructive scheme unless this finds its own guarantee in the fact that it is to the interest of all the parties to carry it out in good faith, we put forward our plan relying upon this interest. We hope the character of our plan will itself assist in securing this guarantee, which is essential for its execution; but in the main, of course, it must be for others to take such measures as are necessary to maintain or assure it.

II. German Economic Unity

The Committee has had to consider to what extent the balancing of the budget and the stabilization of the currency could be re-established permanently in Germany as she actually is at the present moment, with limitations as to her fiscal and economic rights over part of her area.

We should say at the outset that we have been unable to find any practical means of ensuring permanent stability in budget and currency under these conditions, and we think it unlikely that such means exist. The solution of the double problem submitted to us implies indeed the

restoration of Germany's credit both externally and internally, and it has appeared to us impossible to provide for this restoration under the conditions mentioned. We have, therefore, been compelled to make the assumption that the fiscal and economic unity of the Reich will be restored and our whole report is based on this hypothesis.

III. Military Aspects

Contingent Sanctions and Guarantees

If political guarantees and penalties intended to ensure the execution of the plan proposed are considered desirable, they fall outside the Committee's jurisdiction.

Questions of military occupation are also not within our terms of reference.

It is however our duty to point out clearly that our forecasts are based on the assumption that economic activity will be unhampered and unaffected by any foreign organization other than the controls herein provided. Consequently, our plan is based upon the assumption that existing measures, in so far as they hamper that activity, will be withdrawn or sufficiently modified so soon as Germany has put into execution the plan recommended, and that they will not be reimposed except in the case of flagrant failure to fulfill the conditions accepted by common agreement. In case of such failure it is plainly for the creditor Governments, acting with the consciousness of joint trusteeship for the financial interests of themselves and of others who will have advanced money upon the lines of the plan, then to determine the nature of sanctions to be applied and the method of their rapid and effective application.

In saying this we wish to add at once that if the economic system now in operation in occupied territory is modified, we are unanimously of the opinion that a settlement of reparation must be reinforced by adequate and productive securities. We propose for this purpose a system of control which we believe will be effective, and at the same time such as not to impede the return to financial stability (*see* XIV below).

IV. The Committee's Task

As the terms of reference indicate, two principal problems were submitted to us for inquiry: the stabilization of German currency and the balancing of the German budget. It is self-evident that these problems are interdependent. The currency of a country cannot remain stable unless its budget is normally balanced, for if expenditure continually exceeds receipts there will in time be no alternative to the printing of new notes to meet the excess; and the inflation will inevitably involve

depreciation. On the other hand, the task of balancing a budget, unless the currency is relatively stable, is an impossible one, for a falling currency makes calculations both of receipts and expenses unreliable, and in particular causes a continual loss to the taxing authority through the necessary interval of time between assessment and collection. While therefore in the nature of things it is necessary that the two problems should in the first instance be studied separately, their interdependence must be consistently borne in mind. In examining each of them separately, we have assumed for the minute that the other has been solved, without ever losing sight of the fact that the stabilization of the currency and the balancing of the budget are means designed to enable Germany to satisfy her own essential requirements and to meet her Treaty commitments, the fulfillment of which is so vital to the reconstruction of Western Europe. It must not be forgotten that the performance of these commitments is of vital importance, not only for the countries having a claim on Germany, but also for Germany herself. It is, indeed, clear that a Germany whose economy had again become flourishing could not long resist a financial and economic crisis in the nations surrounding her. In order that the restoration of Germany may be definitive, the other nations must also return to the conditions requisite for their financial and economic existence and must likewise be enabled to carry on the normal exchange of goods on which the general prosperity depends.

V. The Economic Potentialities of Germany

The task would be hopeless if the present situation of Germany accurately reflected her potential capacity; the proceeds from Germany's national production could not in that case enable her both to meet the national needs and to ensure the payment of her foreign debts.

But Germany's growing and industrious population; her great technical skill; the wealth of her material resources; the development of her agriculture on progressive lines; her eminence in industrial science; all these factors enable us to be hopeful with regard to her future production.

Further, ever since 1919 the country has been improving its plant and equipment; the experts specially appointed to examine the railways have shown in their report that expense has not been spared in improving the German railway system; telephone and telegraph communications have been assured with the help of the most modern appliances; harbors and canals have likewise been developed; lastly, the industrialists have been enabled further to increase an entirely modern plant which is now adapted in many industries to produce a greater output than before the war.

Germany is therefore well equipped with resources; she possesses the means for exploiting them on a large scale; when the present credit short-

age has been overcome, she will be able to resume a favored position in the activity of a world where normal conditions of exchange are gradually being restored.

Without undue optimism, it may be anticipated that Germany's production will enable her to satisfy her own requirements and raise the amounts contemplated in this plan for reparation obligations. The restoration of her financial situation and of her currency, as well as the world's return to a sound economic position, seem to us essential but adequate conditions for obtaining this result.

VI. Stability of the Currency

A New Bank of Issue

We propose to deal in the first place with the currency problem.

The present financial and currency position in Germany is stated in Part II. It will be seen that by means of the Rentenmark, stability has been attained for a few months, but on a basis which, in the absence of other measures, can only be temporary.

The Committee proposes the establishment of a new bank of issue in Germany, or, alternatively, a reorganization of the Reichsbank, as an essential agency for creating in Germany a unified and stable currency. Such a currency, the Committee believes, is necessary for the rehabilitation of Germany's finances, the balancing of her budget and the restoration of her foreign credit. The principal features of the bank plan, which is printed in Annex 1, are as follows:—

The Bank is to have the exclusive right (with certain minor qualifications) to issue paper money in Germany for the period of its charter, fifty (50) years. All of the many kinds of paper money now circulating in Germany (except limited note issues of certain State banks) are to be gradually withdrawn from circulation, giving place to a single uniform paper currency, the bank-notes of the new bank. These bank-notes will be protected by a normal legal reserve of thirty-three and one-third per cent., and by other liquid assets. The reserve will be held largely in the form of deposits in foreign banks.

The plan contemplates that as a permanent policy the notes of the Bank shall be redeemable in gold, but the Committee is of the opinion that at the time of the inception of the Bank the situation will temporarily not allow of the application of the rule of convertibility. It therefore suggests that a currency should be created which will be kept stable in relation to gold and as soon as conditions permit be placed on a convertible basis.

Like the present Reichsbank, the new bank will serve as a bankers' bank, rediscounting the safest category of short-term bills, etc., and so

establishing the official rate of discount. It will also handle for the other banks the giro system for the transfer of bank credits.

The Bank will deal with the public, making short-time commercial loans and discounts, effecting transfers and receiving deposits.

It will be the depository and the fiscal agent of the German Government. It may make short-term loans to the Government, but the amount and character of these loans are strictly limited, and the granting of such loans is carefully safeguarded. The German Government is to participate in the profits of the Bank, but the Bank is to be entirely free from Governmental control or interference.

Treaty funds collected in Germany are all to be deposited in the new bank to the credit of a special account and are only to be withdrawable by the creditor nations under conditions and safeguards which will adequately protect the German exchange market and the interests of the creditor nations and the German economy.

The new bank will have a capital of four hundred million (400,000,000) gold marks, part to be subscribed in Germany and part abroad. It is to be administered by a German President and a German Managing Board, which can have the assistance, as in the case of the Reichsbank, of a consultative committee. Alongside of this German Managing Board there is to be another Board, called the "General Board," which will consist of seven Germans and seven foreigners, one each of the following nationalities: British, French, Italian, Belgian, American, Dutch and Swiss. This General Board is given broad powers in such matters of bank organization and operation as might affect the interests of the creditor nations. One of the foreign members of the General Board will be known as the "Commissioner." He will be responsible for seeing that there is no infringement of the provisions relative to the issuance of notes and the maintenance of the Bank's reserves. Decisions of the General Board will require a majority vote of ten of the fourteen members, unless both the President and the Commissioner are included in the majority, in which case a simple majority will be sufficient. Thus, co-operation by members of both groups is necessary for action.

It has been suggested in various quarters that to ensure the Bank's independence of the Government, an Issue Department, which could be under the direction of the Commissioner and which would be responsible for the reserve and for the issue of notes, should be established abroad. Such a guarantee is political rather than technical in character, and to propose it is outside the jurisdiction of the Committee.

A study of the Annex is essential to a thorough comprehension of the Committee's recommendations, and it has contented itself with drawing attention here to the main features to which it attaches importance.

Still assuming for the minute that the Budget problem has been suc-

cessfully surmounted, we believe that our recommendations furnish a practical method, not only of stabilizing the German exchange, but of securing to German economy those credits in stable value which are essential to its reinvigoration and to the payment of reparation.

Labor also will benefit, for its interests above all are dependent upon stability. Some classes of the community may have compensations in the amazing overturn of fortunes which inflation brings—some benefit and others suffer. But for the working classes instability is wholly evil; it has no compensations whatever. In this connection, we may refer to the views expressed by the representative of labor who appeared before us in Berlin: "speaking not for the whole of the German people, but merely for the class which he represented, Herr Grassmann stated that the German working classes could not stand another period of inflation. They must appeal to the world for a stable currency which would render it possible for them to buy something with their wages even four weeks after they had received them". It is clear that if the Statutes of the Bank are strictly observed there can be little danger of future inflation. One of the advantages to be expected is that foreign currencies immobilized in Germany, which are at present economically sterile, will be mobilized in the form of subscriptions or deposits to the Bank and return to economic uses.

VII. The Budget and Temporary Reparation Relief

Attention may now be directed to the other main aspect of our problem, the balancing of the budget. We propose to deal first with the general budget of the Reich, and secondly and separately with the railways, which at present are contributing nothing to the general budget.

In addition to a stable currency and the economic unity defined above, the budget requires certain relief from immediate charges for Treaty purposes, which, while securing the budgetary position, will not imply the cessation of the payments indispensable to the Allies in the form of deliveries in kind.

VIII. The Basic Principles of Germany's Annual Burden

(a) *Treaty Obligations and their Bearing upon the Continuity of Balanced Budgets*

It will be obvious that the balancing of the budget is, like the stabilization of the currency, of little value unless it can be maintained. It is not enough to be satisfied that one or even several budgets will be balanced. It is necessary to consider under what conditions, assuming sound administration, financial as well as currency stability can be continuously ensured, or rather under what conditions such stability once gained is likely to

be endangered. It is inevitable therefore that we should look forward. not indeed in the same detail but with proper regard to the chief determining factors, to those later years during which Germany will have gradually to liquidate her external Treaty obligations.

We repudiate, of course, the view that Germany's full domestic demands constitute a first charge on her resources and that what is available for her Treaty obligations is merely the surplus revenue that she may be willing to realize. But at the same time, if the prior obligation for reparation that is fixed for Germany to pay, together with an irreducible minimum for her own domestic expenditure, make up in a given year a sum beyond her taxable capacity, then budget instability at once ensues and currency stability is also probably involved. In that event, an adjustment of the Treaty obligations of the year is obviously the only course possible. The amount that can safely be fixed for reparation purposes tends therefore to be the difference between the maximum revenue and minimum expenditure for Germany's own needs. We shall naturally and inevitably be led to discuss later the amount of reparation payments which can be made out of budget resources and the method by which they can be effected, if the postulates of a stable currency and of a balanced budget are accepted. It would be to ignore both the plain dictates of justice, the practical conditions which must determine the acceptance or rejection of our proposals, and the context and obvious purpose of our terms of reference, if we approached our task from any other angle.

It might, indeed, be thought that if we have thus been involved in a consideration of reparation payments, it is only of such payments as are to be made during the reconstruction period of the next few years. Our task, it may be said, is to advise as to the way to attain stabilization and a balanced budget, not as to the sums to be demanded from Germany when that aim has been achieved. But no such sharp division of periods is possible, for the following reasons:

(1) The basis on which the budget is balanced at the end of the reconstruction period, and the sum it includes for reparation, must obviously determine to a large extent the sums payable in the following years. Otherwise, as we have said, an equilibrium, though once attained, might be rapidly lost. The effort would have been in vain and the same problem would again present itself.

(2) More important still is the fact that the success of our proposals to attain financial stabilization depends essentially upon the return of confidence. Without this the return of German capital invested abroad, the attraction of foreign capital for the purposes mentioned in the scheme and of foreign credits for the current conduct of business, and even the proper collection of taxes, will alike be impossible.

Such confidence cannot be attained unless a settlement is now made which both Germany and the outside world believe will give an assurance that for a considerable period neither its finances nor its foreign relations will be endangered by renewed disputes. Such an assurance, as we shall see, does not mean making the charge on Germany a uniform one over a period of years, nor even deciding beforehand what the charge shall be in each of these years. But it does mean settling beforehand the method by which increases shall be determined.

When we speak of the adoption of such a method for "a considerable period," we are thinking primarily of the period which lenders and investors whose money is required as a part of our scheme will have in mind. As we shall see, our scheme needs both foreign and internal subscriptions to a bank of issue, and in particular, an external loan as an essential condition of enabling and assuring reparation payments. We fully recognize both the necessity and the justice of maintaining the principle embodied in the Treaty that Germany's payments should increase with what may prove to be the increase in her future capacity.

We also recognize that an estimate now made once for all might well underestimate this, and that it is both just and practicable that the Allies should share in any increased prosperity. All that we regard as essential as a condition of stabilization is that any such increased demands to correspond with increasing capacity should be determined by a method which is clearly defined in the original settlement, and which is capable of automatic, or at least professional, impartial, and practically indisputable application.

This requirement we have tried to meet, as will be seen, by providing that in addition to a fixed annual payment, there shall be a variable addition dependent upon a composite index figure designed to reflect Germany's increasing capacity.

It is outside the competence of the Committee to establish a limit of years or of amount for the working of the index, nor is it within their competence to fix the number of annuities which Germany will have to pay, as this would practically mean the fixation of a new German capital debt. In any new arrangements made for a definite settlement of the various international financial obligations arising out of the war, it would be easy as regards the German debt to apply our plan to those new conditions.

(b) *Commensurate Taxation*

We have done our utmost to apply the principle of commensurate taxation.

It is not open to dispute, as a simple principle of justice, and it is contemplated by the Treaty that the German people should be placed under

a burden of taxation at least as heavy as that borne by the peoples of the Allied countries. No single person in Germany, whether speaking as an individual or representing any section of the nation, has failed to accept that principle when it has been squarely put to him. Any limitation upon it, if there is one, must be a limitation of practicability and general economic expediency in the interests of the Allies themselves. Obviously it is morally sound; and it would be clearly repugnant to all sense of natural justice that the taxpayers of countries with large and important regions devastated by the war should bear the burden of restoring them, while the taxpayer of Germany, on whose territory the war caused no comparable devastation, escaped with a lighter burden. The principle is, at the same time, economically just, for it is obviously unfair and in every way undesirable that the Allied taxpayer should be penalized by the fact either that taxes resulting from the war weigh more heavily upon him as a consumer, or that in competition in his business he should be handicapped by greater burdens on the costs of production, including wages, than his German competitor bears.

We have borne in mind both the importance of the virtual extinction of debt in Germany and the general burden of taxation in Allied countries. As we indicate more fully in Part II, there are many difficulties in theory and practice, but in spite of them we have done our utmost to secure that the proposals we make should involve a "commensurate burden" in the fairest interpretation and application of that principle which is practicable. We are satisfied that in what we propose we are not imposing a heavier burden; we are also satisfied that we have applied the principle as far as it is practicable in the interests no less of the Allies than of Germany.

(c) *An Index of Prosperity is Necessary to Enable the Allies to Share in the Increased Prosperity of Germany*

After a short period of recovery we believe that the financial and economic situation of Germany will have returned to a normal state, after which time the index will begin to operate.

The system of a variable annuity has the sanction of usage in the schedule of payments. But we venture to suggest for most careful consideration the advisability of altering the existing index, constituted by the value of exports. This index appears to us to be imperfect.

We are aware that there are cogent reasons both for and against any test which may be suggested, and we do not propose to examine them in detail. We are of opinion that the undoubted shortcomings of particular indices are neutralized to a large extent if a composite index is chosen, and we have a reasonable assurance that a fair measure of Germany's

increasing prosperity will be obtained. Our suggestions, after considering many various alternatives for such an index, are given in Annex 2.

We take upon ourselves to recommend these suggestions, as an indication, to the attention of the Reparation Commission.

We are of the opinion that at least during the period within which the loan which we propose is being amortized, the annual charge upon Germany should not be heavier than that which would result from the application of this index; nor would the Committee accept any responsibility for the balancing of the budget even in later years if heavier payments than the above were called for.

We propose that an average of years (chiefly 1926, 1927, 1928, and 1929) should be taken as the base; that the percentage increase shown by each of six sets of representative statistics (railway traffic, population, foreign trade, consumption of tobacco, etc., budget expenditure and consumption of coal) should be ascertained; and that the average of these six percentages should be taken as indicating the proportionate increase to be added to the Treaty sums demanded in a given future year.

Under this system Germany will retain her incentive to develop, as she retains the major part of the advantage of any increase in prosperity, while the Allies obtain a reasonable share in this increase and avoid the risk of losing through a premature estimate of future capacity.

At the same time, the adoption of a method involving not discretionary but automatic application, gives the necessary assurance from the commencement both to Germany and the world that Treaty demands will not, in the period to which the settlement relates, be again the subject of negotiation and dispute.

We propose, however, one further correcting factor of quite a different character which is only a precautionary measure and may never be actually involved. The Treaty prescribes Germany's obligations in terms of gold; and for convenience we have expressed our estimate in the same terms. But both the burden on Germany, and the advantage to the Allies of Treaty payments, consist of goods and services. Gold is only a measure of value, and over a long period of years may be an uncertain and defective one. It is only in the case of really important changes that any action is necessary and we therefore propose that a reduction or increase of the figures both as regards the standard and the supplementary payments should be made automatically in correspondence with changes in the general purchasing power of gold, whenever, by the decision of an impartial authority, such changes amount to more than 10 per cent.

(d) *The Distinction between the Taxpayers' "Capacity to Pay" in Germany and Germany's Capacity to Pay the Allies*

There has been a tendency in the past to confuse two distinct though related questions, *i.e.*, first, the amount of revenue which Germany can raise available for reparation account, and, second, the amount which can be transferred to foreign countries. The funds raised and transferred to the Allies on reparation account cannot, in the long run, exceed the sums which the balance of payments makes it possible to transfer, without currency and budget instability ensuing. But it is quite obvious that the amount of budget surplus which can be raised by taxation is not limited by the entirely distinct question of the conditions of external transfer. We propose to distinguish sharply between the two problems, and first deal with the problem of the maximum budget surplus and afterwards with the problem of payment to the Allies. In the past, the varying conclusions formed as to Germany's "capacity" have often depended upon which of these two methods has been chosen.

As a first method of approach the budgetary criterion has obvious advantages and attractions. Reparation must first be provided for as an item in the budget.

The budget itself is the sum of decisions taken by a single authority. It is capable of expert judgment and, within narrower limits of error, of calculation and analysis.

By comparison a country's "economic balance" defies exact calculation. The balance, even at a given amount, can only be estimated approximately, for the invisible exports and imports which constitute an important part of it cannot be known exactly. And a *potential* economic balance is much more uncertain. It depends not on the decisions of a single authority, but on the enterprise of individual merchants and manufacturers. Reparation demands themselves will increase it. The extent to which economic adaptation is possible over a long period of years, under the pressure of external obligations, is a matter of conjecture; an existing economic balance, before such obligations have been in operation long enough to have their effect on the economy of the country, gives a very uncertain criterion. The economic balance is therefore, by comparison with the budget, incapable of close calculation, "unmanageable" and too elastic.

But the limits set by the economic balance, if impossible of exact determination, are real. For the stability of a country's currency to be permanently maintained, not only must her budget be balanced, but her earnings from abroad must be equal to the payments she must make abroad, including not only payments for the goods she imports, but the sums paid in reparation. Nor can the balance of the budget

itself be permanently maintained except on the same conditions. Loan operations may disguise the position—or postpone its practical results—but they cannot alter it. If reparation can, and must, be provided by means of the inclusion of an item in the budget—*i.e.*, by the collection of taxes in excess of internal expenditure—it can only be paid abroad by means of an economic surplus in the country's activities.

We have, it will be seen, attempted to give effect to both these sets of considerations by a method we believe to be both logical and practical. We estimate the amount which we think Germany can pay in gold marks by consideration of her budget possibilities; but we propose safeguards against such transfers of these mark payments into foreign exchange as would destroy stabilization and thereby endanger future reparation.

By comparison with a system which reduced the sums considered possible on budget grounds because of considerations based upon estimates of the possible economic balance, this has the following advantages:

(*a*) it enables the maximum sums to be obtained and paid to the Allies' account;

(*b*) any limitation upon transfers into foreign currencies will depend upon the exact economic position as it develops in fact and not upon a necessarily problematical estimate of it; and the limitation will only apply so far as it actually proves necessary;

(*c*) even so far as the sums paid in reparation cannot be completely transferred, they can, under certain conditions, be used by the Allies for internal investment in Germany.

Above all, we recommend our proposal for these reasons: it adjusts itself automatically to realities; the burden which should rest upon the German taxpayer should, in justice, so obviously be commensurate with that borne by the Allied taxpayer that, in our view, nothing but the most compelling and proved necessity should operate to make it lighter. It would be both speculative and unjust to attempt to forecast the possibilities of the future exchange position and to determine Germany's burden in advance with reference to a problematic estimate of it. Experience, and experience alone, can show what transfer into foreign currencies can in practice be made. Our system provides in the meantime for a proper charge upon the German taxpayer, and a corresponding deposit in gold marks to the Allies' account; and then secures the maximum conversion of these mark deposits into foreign currencies which the actual capacity of the exchange position at any given time renders possible.

IX. The Normal Resources from which Germany Should Make Payments

With these principles in mind, we recommend that Germany should make payment from the following sources:

(A) From her ordinary budget.
(B) From Railway Bonds and Transport Tax.
(C) From Industrial Debentures.

We proceed to consider each of these in turn.

A. *Provision from the Budget for Treaty Payments Budget Equilibrium*

To recommend what payments Germany can make from her ordinary budget, and from what dates, is in effect to answer the first of the two specific questions put to us, *i.e.*, how to "balance the German Budget." For, in our view, if the economic and fiscal unity of the Reich is restored, if a stable currency is established, and if the budget is given temporary relief from Treaty payments, Germany should balance her budget from her own resources by a vigorous internal effort supported by the confidence which a general and stable settlement may be expected to give, and she should thereafter be able to maintain it in equilibrium, if the future charge for Treaty payments is determined by a method which assures that it will not exceed her capacity.

In other words, we do not consider that an external loan is needed—as in the case of Austria and Hungary—to be devoted specifically to meeting ordinary deficits during a transition period. External money is indeed an essential part of our scheme, in part for the establishment of a new Bank of Issue; in part to prevent an interruption of deliveries in kind during the transition period; and essentially, to create the confidence upon which the whole success of the scheme depends. But we do not propose that it should be confined, or devoted specially, to meeting deficits on ordinary expenditure even during a transition period. On the contrary, as will be seen, we think that, from the beginning, internal resources should meet internal ordinary expenditure, and at a very early date should suffice in addition to make substantial contributions towards the external debt.

The present budget position is described in some detail in Part II, which includes our criticisms and recommendations as to the measures we think practicable for economizing in expenditure and increasing taxation.

We confine ourselves here to our conclusions as to the provision that can be made for meeting Treaty payments.

(1) 1924–25 *Budget.*—In the first year (1924–25) we consider that the ordinary budget may balance. Even if there is a deficit we are confident that it should not be such as to endanger the stability of the currency, and that at the worst the Government can meet it by the orthodox expedients—increases of existing taxation, further emergency taxes and internal loans.

Even if energetic measures are taken to obviate any deficit in 1924–25, we are satisfied that neither by reduction of expenditure nor by an increase in receipts can Germany be expected to provide out of budget resources for any Peace Treaty payments to the Allies, and that any demand for their payment would imperil botb the structure of the budget and the stability of the currency. How relief can be otherwise provided for the reparation creditors will be considered separately.

The fundamental importance of the effect upon the stability of the Reich budget of the finances of the States (Prussia, Bavaria, etc.) and of the Communes has greatly exercised us, and we have stated our views on the system of subsidies and local expenditure in Part II.

(2) 1925–26 *Budget.*—On passing to the Budget for 1925–26, it is obvious that the existing data are insufficient for a precise judgment on its detailed prospects. Certain general conclusions are, however, possible.

On the revenue side, the lapse of a whole year of currency stability and readjustment should, of itself, increase receipts. The period of recuperation will not have been long enough completely to restore the yield of the Income Tax, but there will at least be gold mark profits of 1924–25 on which to frame a reasonable assessment. Consumption taxes should be directly affected by returning prosperity.

On the expenditure side it may be hoped, with some degree of confidence, that expenditure on unemployment will exhibit a notable decrease. The expenditure on the Army is capable of reduction. An automatic decrease will make itself felt in the pension charge. It is not to be expected on the other hand that sums thus saved on these or other heads will represent a net benefit to the budget. In particular, and this remark applies also to the budgets of the immediately succeeding years, increases in the salary charges of the Reich which can probably not be entirely offset by decreases in personnel must be anticipated.

Some increase of expenditure must therefore be expected. On balance, however, we are of opinion that the growth in receipts should be more than sufficient to counterbalance any increase in expenditure. Whatever views may be held about the eventual outcome of the 1924–25 budget, we are clear that the second year should show a substantial improvement upon it. The result of the first year therefore affects our view as to whether the result of the following year will be actually an appreciable surplus. If it should prove that the 1924–25 budget cannot be balanced

by taxation alone, the improvement to be expected in the following year might not be more than sufficient to secure the balance desired. If, on the other hand, no loans were necessary in 1924–25, any improvement in the following year would be net surplus and entirely available for meeting Peace Treaty charges.

We are clearly of the view that if the two years are taken together, receipts should be sufficient to cover ordinary expenditure and we do not exclude the possibility of a small surplus. On the other hand it cannot be stated with certainty that the inclusion of a compulsory liability for Peace Treaty charges will not destroy the whole balance and it is obviously vital that the mistake should not be made of fixing as a first payment during recovery a sum which the circumstances may not justify. The stability of future reparation payments and German credit in general might thus be endangered.

There is another factor that must be taken into account. For the successful operation of the scheme for dealing with the railways to which we shall refer later, it is necessary that the proceeds of the transport tax to the extent of 250,000,000 gold marks should be withdrawn for this year from the revenue side of the budget and devoted to the payment of Treaty charges.

On the other hand that scheme also provides for the sale by the railway company of preference shares to the nominal value of 2,000,000,000 gold marks, one quarter of the proceeds accruing to the profit of the German Budget and the balance providing for past and future capital expenditure of the railways. For the successful execution of the railway scheme we attach great importance to the sale to the public of these preference shares and we feel justified in assuming that before the end of the year 1925–26 the German Government will be in effective possession of 500,000,000 gold marks as a result of this transaction. The budget can therefore be reinforced to that extent and after making allowance for the withdrawal of 250,000,000 gold marks in respect of the transport tax there will be a balance of 250,000,000 gold marks which should be available for meeting Peace Treaty charges.

By the procedure we have indicated any danger of hampering future stability by a premature call upon the ordinary resources of the German budget will be obviated and there will be an additional inducement to transfer the preference shares to private ownership.

We therefore recommend that in the year 1925–26, Germany should be required to meet Peace Treaty charges out of her budget to the extent of 250,000,000 gold marks. If, contrary to our expectation, the budget fails to realize 500,000,000 gold marks from the sale of preference shares, we consider that any resultant deficit could be met by an internal loan.

The proceeds of the transport tax should thenceforth not figure in

the revenue side of the budget except to the extent to which they exceed 250,000,000 gold marks in 1925–26 and 290,000,000 gold marks in subsequent years.

We once more reserve the question of providing for further reparation payments by other means.

(3) *The Budget of Later Years.*—As we have said already, Germany's credit cannot rest upon the mere establishment of budget equilibrium. It must be clear that it can be permanently maintained. It is therefore necessary for us to consider what burden Germany can bear in the near future without danger to that equilibrium. In this connection, certain assumptions have necessarily been made. It has been considered that if for two years the budget is relieved from Peace Treaty charges and a stable currency is re-established, Germany ought in 1926 to be making rapid strides towards complete recovery, and should in three years, by 1928, reach a normal economic condition. We have taken into account the probable yield of her several taxes and her taxable capacity as a whole and the probable changes in expenditure under these improving conditions, and after making full allowance for error, we have reached definite conclusions as to the sums which can be fixed for Peace Treaty charges, without endangering the stability of the budget. These results we have considered in relation to the maximum probable rate at which the national income can be expected to grow from its present point and the maximum proportion of that growth which can successfully be absorbed in taxation.

We draw the conclusion that, allowance being made for some inevitable growth in expenditure, the Budgets for the three subsequent years can safely provide for the following maximum sums:

	Million gold marks
1926–27	110
1927–28	500
1928–29	1,250

On the other hand, regard being had to the fact that it is difficult to estimate the recuperative power of Germany in 1926–27 and 1927–28, we would propose that these amounts should be regarded as subject to modification by a sum not exceeding 250 million gold marks on the following plan: if the aggregate controlled revenues as defined in Section XIV exceed 1 milliard in 1926–27 or 1,250 million in 1927–28, an addition shall be made to the above contributions equal to one-third of such excess. Conversely, if those aggregate revenues fall short of 1 milliard in 1926–27 or 1,250 million in 1927–28 the total contributions shall be diminished by an amount equal to one-third of the deficiency.

We believe that at the end of the fiscal year 1928–29, the financial and

economic situation of Germany will have returned to a normal state, and that in this and subsequent years the ordinary budget should support the inclusion of a sum of 1,250 million gold marks. The total sums therefore to be provided from *ordinary budget resources* would be the standard payment of 1,250 million plus the additional sum (already referred to) computed upon the Index of Prosperity, as from 1929–30 onwards.

We have considered carefully the question of the amount to which the index should be applied and, as we are desirous that in the earlier years of her recovery German progress shall not be unduly handicapped by shortage of new capital, we think that it will be desirable to apply it to the purely budget contribution 1,250 million (or one-half of the total standard payment) for the first five years of the application of the index, *viz.*, 1929–30 to 1933–34. After that date, 1934–35, the index should apply on the full amount of the contribution, namely, 2,500 million gold marks.

B. *Railways*

We have conducted, with the assistance of two eminent railway experts, a close examination of the situation of the German railways. The subject is an important one, for the railways have been operated since the Armistice at a constantly increasing loss, which has involved heavy burdens upon the German budget.

Most, if not all, railway systems have passed through a period of great difficulty since the war from causes which were largely beyond their control. It is clear, however, from a study of the report drawn up by the experts, which will be found in Annex 3, that the greatest difficulties were of the Germans' own making. The German railway administration cannot but plead guilty to two serious charges. In the first place, as is proved by the reduction which it is now possible to make, they have been enormously overstaffed, even when all account is taken of the introduction of an eight-hour day and of Peace Treaty charges justifying temporary disorganization. In the second place, the administration has indulged in extravagant capital expenditure for which the official excuse is that construction was largely undertaken to ward off unemployment.

It is only just to observe that the situation has now improved out of recognition, though more remains to be done. The German Government have separated the railways from the ordinary administration and assimilated them in form, so far as is possible, to a business concern. Capital construction has been slackened and fares have at any rate been raised to a point where the railways are not only self-supporting, but can provide some profit.

These measures are, however, insufficient. The capital value of the railways is estimated by the experts on a conservative basis at 26 milliards.

They are unencumbered with old debts, for their prior charges were extinguished by the depreciation of the mark, and these prior charges absorbed half the gross profits in the pre-war period, which amounted to approximately 1 milliard gold marks, in spite of the fact that it was the custom to include in operating and maintenance charges large expenditures which might properly have been charged to capital account.

The railway experts are convinced, and we share their conviction, that under proper management, under unified control, and with a proper tariff policy, the railways can without difficulty earn a fair return upon their present capital value.

Nor need it be thought that this improvement in profits will be made at the expense of the German people by increasing their fares and the cost of all goods transported by rail. It can be substantially provided by the more economical administration of the railways themselves.

In saying this we have not in mind inadequate wages, but rather the elimination from operating and maintenance charges of certain elements of waste and also expenditure more properly chargeable to capital account.

The railway experts arrived, however, witb considerable reluctance at the conclusion that it would be useless to expect anything approaching the full measure of improvement which is possible, so long as the railways remain in the control of the Government. The whole spirit of the Government's ownership in the past has been directed to running the railways primarily in the interest of German industry, and only secondarily as a revenue-producing concern, and in their opinion a complete break with old traditions is essential.

We accept their conclusions and we recommend the conversion of the German railways into a joint stock company. It is not our intention thus to deprive Germany of the administration of her railways in favor of the Allies; on the contrary, our plan demands only a modest return on the capital cost, and so long as this return is forthcoming we do not anticipate any interference in the German management of the undertaking.

We would add that if, as the German Government has itself proposed, the exploitation of the railways is divided into several systems, this division should not affect detrimentally their financial unity.

The details of our proposals will be found in Annex 4, and we will content ourselves with giving only a broad outline at this point.

The Committee recommends that there should be paid from the German railways, 11 milliard gold marks to be represented by first mortgage bonds bearing 5 per cent. interest and 1 per cent. sinking fund per annum. The capital cost of the German railways computed on a gold mark basis is estimated by our experts at 26 milliards. The net earnings of these railways before the war, after liberal and indeed exaggerated charges to operating and maintenance, were as high as 1 milliard. The interest and sink-

ing fund on these debentures represents less than 3 per cent. of the capital cost, which is a very modest charge on the capital investment compared with that required in many other countries of the world.

Realizing that during the period of reorganization of the railways, full interest and sinking fund charges should not be required, we think payments on account of interest should be as follows:

1924–25: three hundred and thirty million gold marks;
1925–26: four hundred and sixty-five million gold marks;
1926–27: five hundred and fifty million gold marks;
1927–28 and thereafter: six hundred and sixty million gold marks. This is regarded as a normal year.

In addition to the 11 milliards of bonds, the new railway company is to have a capital of 2 milliards of preference shares and the remainder of its capital cost, namely 13 milliards, is to be represented by common stock. 1½ milliards of preference shares are to be set aside in the treasury of the company, for sale to private persons to provide funds for the payment of existing indebtedness and future capital expenditures. The proceeds of the sale of the other 500 millions of preference shares and all of the common shares are to go to the German Government.

The railways are to be managed by a Board of 18 Directors of whom nine will be chosen by the German Government and the private holders of preference shares, and the other nine will be named by the Trustee of the bonds, five of whom may be German. It is therefore contemplated that the Board will have fourteen German members. The Chairman of the Board and the General Manager of the railways will be German.

It is contemplated that the railway company will be free to conduct its business in such manner as it may think proper, provided always however that the German Government will have such control over its tariffs and service as may be necessary to prevent discrimination and to protect the public. Such Government control however is never to be exercised so as to impair the ability of the railway company to earn a fair and reasonable return on its capital cost.

The Railway Commissioner represents the interests of the bond holders. His principal duty will be, in the absence of default in interest, to receive reports, statistical and financial returns, and generally to see that the interests of the bond holders are not menaced.

C. *Industrial Debentures*

The Committee has been impressed with the fairness and desirability of requiring as a contribution to reparation payments from German industry, a sum of not less than 5 milliards of gold marks, to be represented

by First Mortgage bonds bearing 5 per cent. interest and 1 per cent. sinking fund per annum. This amount of bonds is less than the total debt of industrial undertakings in Germany before the war. Such indebtedness has for the most part been discharged by nominal payments in depreciated currency, or practically extinguished. In addition the industrial concerns have profited in many ways through the depreciated currency, such as the long delayed payment of taxes, by subsidies granted and advances made by the German Government, and by depreciation of emergency money which they have issued. On the other hand it is incontestably true that there have also in many instances resulted losses, through the depreciation of currency, from the sale of output at fixed prices and in other ways.

It is unnecessary for the Committee to make an estimate of the total amount of such profits and losses; it is sufficient to say that the Committee is satisfied that a burden of mortgage debt of the amount of 5 milliard gold marks on the industries of Germany, fairly apportioned, bearing a moderate rate of interest and payable on long maturity, does not create a burden greater than that which would have existed had there been no depreciation of currency.

In fact the fairness of such a proposal has been recognized by the German Government itself in a proposal submitted on June 7, 1923, to all the Allied and Associated Governments.

This proposal was later confirmed by persons in high authority in the subsequent and present German Governments.

The offer referred to above was of 10 milliard gold marks, covering business, industry, banking, trade, traffic and agriculture. The request of the Committee is for 5 milliards only and it suggests the exemption of agriculture from the obligations of the mortgage.

Realizing the importance of agriculture to a nation unable to provide its entire food supply, we feel more reserve in making a recommendation as to the burdens which should fairly be put on it, though we cannot close our eyes to the fact that a very large amount of agricultural indebtedness has been discharged at merely nominal figures and the owners of equity in land have realized substantial profits at the expense of their former creditors.

We desire to make it clear that the Committee in asking for mortgage bonds on industries does not recommend in any sense an unfair or discriminating burden against them, and so we do recommend that equalization be properly and fairly made by the German Government for the benefit of its own budget. If in the opinion of the German Government a burden on other property should be imposed in order to equalize the burden of reparation payments on property other than industrial property, we recommend that it be done in favor of the German budget either by a further valorization tax or by a specific lien or otherwise. If this

course be followed and a fair and accurate system of direct taxation be adopted the Committee believes that all classes in Germany will be called upon to make their fair and reasonable contribution to Peace Treaty charges either through direct or indirect taxation.

Realizing the depletion of the liquid capital supply in Germany, and that a period should be provided for its recuperation, we recommend that the interest on the 5 milliards of debentures above referred to be waived entirely during the first year, that the interest during the second year be 2½ per cent., during the third year 5 per cent., and thereafter 5 per cent. plus 1 per cent. sinking fund. In the event of default in the payment of interest, sinking fund or principal on any of the said debentures, provision has been made for recovery from the German Government through the Commissioner of Controlled Revenues.

The plan will be found in Annex 5.

X. Summary of Provision for Treaty Payments

We are now in a position to summarize the full provision we contemplate for Treaty payments:

	Million gold marks
Budget Moratorium Period:	
First year: from foreign loan and part interest (200 millions) on railway bonds;	
Total of	1,000
Second year: from interest on railway bonds (including 130 millions balance from first year) and interest on industrial debentures and budget contribution, including sale of railway shares;	
Total of	1,220
Transition Period:	
Third year: from interest on railway bonds and industrial debentures, from transport tax and from budget;	
Total of	1,200
subject to contingent addition or reduction not exceeding 250 gold marks.	
Fourth year: from interest on railway bonds and industrial debentures, from transport tax and from budget;	
Total of	1,750
subject to contingent addition or reduction not exceeding 250 million gold marks.	

Standard Year:

Fifth year: from interest on railway bonds and industrial debentures, from transport tax and from budget;

Total of 2,500

The first year will begin to run from the date when the plan shall have been accepted and made effective.

We must point out that the total figures indicated for each year must include the sums paid by the German Budget, the railway company, or the debtors on industrial debentures, whoever may be the actual recipients of these sums, the Reparation Commission, the capitalists who purchased securities, or even the debtors themselves if they have repurchased their bonds.

These figures clearly do not include the proceeds from the sale of capital assets which may be effected by the creditor governments. As soon as the plan is put into execution, the Reparation Commission will be in possession of bonds for 16 milliard marks, which may be sold to the extent to which the financial markets are capable of absorbing them. Subsequently, bonds representing the transport tax and the contribution from the budget may be issued, and will enable the governments to realize the capital of their claims.

XI. Inclusive Amounts. Deliveries in Kind

The Inclusive Nature of the Payment

Before passing from this part of our report we desire to make it quite clear that the sums denoted above in our examination of the successive years, comprise all amounts for which Germany may be liable to the Allied and Associated Powers for the costs arising out of the war, including reparation, restitution, all costs of all armies of occupation, clearing-house operations to the extent of those balances which the Reparation Commission decide must legitimately remain a definitive charge on the German Government, commissions of control and supervision, etc. Wherever in any part of this Report or its Annexes we refer to Treaty payments, reparation, amounts payable to the Allies, etc., we use these terms to include all charges payable by Germany to the Allied and Associated Powers for these war costs. They include also special payments such as those due under Articles 58, 124 and 125 of the Treaty of Versailles,

The funds to be deposited in the special account in the bank are to be available for the foregoing purposes, notwithstanding anything in this Report which may be interpreted to the contrary, though in saying this we are not to be read as prejudicing questions of distribution or questions of priority between the various categories of charges.

We venture to emphasize the fact that from the point of view from which we are called upon to regard the question, these obligations of Germany are one, and that any addition to one category of charges can only be made at the expense of another.

The Committee have noted the important fact that Germany is not in a position to ascertain her liabilities out of the Peace Treaty as demands are made upon her from time to time during the year, which cannot be calculated beforehand. It appears to us a matter of impossibility for any budget to be scientifically compiled and satisfactorily balanced under such an arrangement, and that therefore means should be found to bring this system to an end. The difficulty will be satisfactorily met if Germany's liabilities for any particular year are absolutely limited according to our plan and, as suggested above, made inclusive of all possible charges, whether in or outside Germany, including the costs of the administrative controls which are set up by our plan.

Deliveries in Kind

We have given special attention to the question of deliveries in kind: in their financial effects, deliveries in kind are not really distinguishable from cash payments, and they cannot in the long run exceed the true surplus of German production over consumption available for export without either upsetting the exchange or rendering foreign loans necessary.

Having made this clear, we have to remember that—

(1) deliveries in kind are dealt with in the Treaty;
(2) they are now an inevitable part of the economic conditions of several of the Allies, and cannot be wholly removed without considerable dislocation;
(3) if the principle is not carried too far, they may represent a stimulus to German productivity and therefore the creation of a greater export surplus;
(4) they may help in avoiding such surplus being absorbed by the prior action of private German investment abroad. In this connection, the maintenance of the system of deliveries in kind, if not carried too far, may act in a manner to keep the transfer as large as possible and to give the Allies priority.

While, therefore, we recognize the necessity for the continuance of deliveries in kind, we think that unless they can be confined to natural products of Germany, such as those specifically dealt with in the Treaty (coal, coke, dyestuffs, etc.), and in the second place to exports which do not entail the previous importation into Germany of a large percentage of their value, they tend to be uneconomic in character.

In the first two years of the operation of the plan the available finance is so restricted that there will be an automatic limitation of deliveries, but in the later period the program must be carefully and periodically considered in advance by the Reparation Commission in conjunction with the Committee referred to in Section XIII if exchange difficulties are to be avoided.

We refer below to the necessity of expending almost exclusively within Germany the sums available for Treaty payments in 1924–25 and 1925–26. In these circumstances, the Allied Governments will doubtless consider whether it is not advisable to continue the system whereby the costs of armies of occupation were a first charge upon the proceeds of deliveries in kind made to the Governments which maintain the armies.

Where we have referred to payments for deliveries in kind in this report we have intended to include therein payments in Germany arising through the operation of the Reparation Recovery Acts.

XII. How the Payments are to be Made

All payments for the account of Reparations (whether from interest and sinking fund on railways or industrial debentures, the transport tax, or from the budget contribution) will be paid in gold marks or their equivalent in German currency into the Bank of Issue to the credit of the "Agent for Reparation Payments." This payment is the definitive act of the German Government in meeting its financial obligations under the plan. It is easier to estimate the burden that Germany's economic and fiscal resources can bear than the amount of her wealth that can be safely transferred abroad, and it is the former and not the later that has formed the first objective of the Committee.

XIII. How the Payments are to be Received

The use and withdrawal of the moneys so deposited will be controlled by a Committee, consisting of the Agent for Reparation Payments (a co-ordinating official under the Reparation Commission, whose position and duties are defined later in this report) and five persons skilled in matters relating to foreign exchange and finance, representing five of the Allied and Associated Powers. This committee will regulate the execution of the program for deliveries in kind and the payments under the Reparation Recovery Act, in such a manner as to prevent difficulties arising with the foreign exchange.

They will also control the transfer of cash to the Allies by purchase of foreign exchange and generally so act as to secure the maximum transfers, without bringing about instability of currency. Fuller details as to their functions will be found in Annex 6. If the payments by Germany on

reparation account, in the long run, exceed the sums that can be thus transferred by deliveries or by purchase of foreign currencies, they will of course begin to accumulate in the Bank. Up to a certain point, in normal circumstances not exceeding 2 milliards, these accumulations will form part of the short money operations of the Bank.

Beyond this point, the Committee will find employment for such funds in bonds or loans in Germany under the conditions laid down in the Annex, but, for economic and political reasons, an unlimited accumulation in this form is not contemplated. We recommend that a limit of 5 milliards be placed upon all funds accumulating in the hands of the reparation creditors in Germany. If this limit is reached, the contributions from the budget are to be reduced below the standards set out in our plan, so that they are not in excess of the withdrawals from the account and the accumulation is not further increased. In this contingency, the payments by Germany out of the budget and the transport tax would be reduced until such time as the transfers to the Allies can be increased and the accumulation be reduced below the limit named.

We do not deny that this part of our proposal will present difficulties of a novel character which can only be solved by experience. But what are the alternatives?

In order that no difficulties with exchange or stability can possibly arise, the sum payable for reparation may be definitely fixed at such a figure as is certain beyond all doubt to be within Germany's capacity to export in excess of her imports. In this case the attainment of such certainty would involve so low a figure as to be quite unacceptable to her creditors and unwarrantably favorable to Germany.

On the other hand the liability may be fixed without regard to that excess of exports at all, and the discharge of the liability left to uncontrolled events without any possible regard to exchange difficulties. That way lies future instability and disaster.

We are convinced that some kind of co-ordinated policy with continuous expert administration in regard to the exchange, lies at the root of the reparation problem and is essential to any practicable scheme in obtaining the maximum sums from Germany for the benefit of the Allies.

XIV. Guarantees in Addition to Railway and Industrial Bonds

It is plainly not enough to demonstrate the feasibility of raising the sums under consideration. It is desirable, in the common interest, that means should be devised for securing that the possible surplus is actually established. The greater the extent to which payment may be rendered automatic and a matter of habit, and independent of fluctuating political

attitude towards reparation, the less will be the friction and the greater will be the real stability of the German budget. In the last resort the best security is the interest of the German Government and people to accept in good faith a burden which the world is satisfied to be within their capacity, and to liquidate as speedily as possible a burden which is and should be onerous.

Creditors, however, are not usually satisfied with a moral security and experience and the present condition of Germany's finances are such as to reinforce their natural desire for tangible and productive guarantees.

These are no less vital in the interest of Germany herself, who will be relieved of a large part of her political troubles if the main source of political controversy is removed by a system which no longer makes the payment of reparation depend upon the constant maintenance or renewal of Governmental decisions. In particular, it is vital in the interests of our scheme, which depends for its success on the assured belief of the whole world in the regular observance of a settlement once made.

On the other hand, we do not hesitate to reject as undesirable, for the purpose which all have in view, save in certain extreme events, any system which would involve directly or indirectly the virtual control of all Germany's revenue and expenditure. It would involve the controlling authority in responsibility for all financial troubles, and it might be a pretext for them.

The use of this safeguard of general budgetary control should be reserved for the case of Germany's willful failure to meet the obligations now laid upon her.

If, as we believe, the payments which we have suggested can be made without compromising budget stability, it is in our opinion not impossible to establish a system under which a combination of self-interest and latent pressure will suffice to assure sound financial administration. We believe that the object can be attained if, without in any way impairing the first charge which now exists in favor of reparation on all Germany's assets, certain specific revenues are assigned to, and under the control of, Germany's creditors. These revenues will furnish a collateral, but not a primary, security and we suggest that they should be the taxes on customs, alcohol, tobacco, beer and sugar.

We propose for this purpose that they should pass directly into the hands of an impartial and effective control; that the Treaty payments should first be deducted by the controlling authority for the account of the Allies; and that Germany should only have the use for her own purposes of such balance as may remain.

We believe that this system contains the greatest degree of effectiveness without involving the Allies in the onus of responsibility for any breakdown in the execution of the plan.

We recommend that the control should be instituted forthwith in spite of the fact that the budget supports no Peace Treaty charge in the year 1924–25.

We make this recommendation for two reasons: Germany, by instituting this control, puts this part of the plan into execution in a definite and public manner, and in the second place early action will ensure that control is in effective operation at the moment when part of the revenues is retained by Germany's creditors.

We would add that while leaving untouched the existing alcohol monopoly, we do not, in view of reports received from technical experts, propose the transformation of consumption duties into new monopolies, though we recommend certain important new regulations with regard to the sale of tobacco.

Controlled Revenues: Their Yield

The estimate made by the German officials of these revenues for the year 1928–29, exclusive of customs, was 1,700,000,000 gold marks.

The technical advisers specially consulted by the Committee have estimated the yield at 2,146,000,000 gold marks.

There is every prospect, therefore, that the assigned and controlled revenues will give a large margin over the Treaty charge payments, even in the standard year, of 1,250,000,000 gold marks. The revenues are a *security* for a payment otherwise fixed. This principle renders possible a system of control which, while equally effective, is much more simple in operation, and is strengthened by the association of Germany's self-interest. Once the Treaty charges are met she is entitled to the whole balance, and therefore she has the fullest inducement to increase the yield. But she can touch no part of the revenues in a given period until the Treaty charges are fully met; so that every increase operates in the first instance to increase the Allies' security.

We have suggested above that in the years 1926–27 and 1927–28 the amount of reparation to be paid should be dependent, to some extent, on the yield of these particular revenues. In order that there may be no misunderstanding, we desire to state clearly that, in our opinion, this arrangement should be strictly confined to the two years in question and be regarded as exceptional.

We believe it to be of the greatest importance that the revenues should normally be regarded strictly as security, and should not be relied upon in the ordinary course as the determinant of the actual sum to be paid as reparation. In particular, if the yield of the revenues exceeds the amount to be secured, the excess should accrue to the German Government. Our reasons for holding these opinions are more fully stated in Part II.

XV. External Loan—its Conditions and Purpose

An integral part of our scheme is the issue by Germany of a foreign loan of 800,000,000 gold marks; this loan is primarily essential for the successful establishment of the new bank and to ensure the stabilization of the currency. The deposit of this amount in the new bank will be an important and necessary contribution to its gold reserves and enlarge the basis of its currency issues. It will thus be enabled, in the second place, without impairing its usefulness for the above, to play an important part in solving the problem created by Germany's immediate and more urgent obligations to the Allies which do not necessitate the transfer of money abroad.

We have already stated our conclusiou that Germany should not be called upon in the years 1924–25 and 1925–26 to provide for any Treaty charges out of ordinary budget resources, and we have deferred to this point indication of means by which a complete suspension of payments may be avoided.

The current liabilities of Germany under the Treaty, other than liabilities for cash payments in foreign currencies, comprising the most essential deliveries in kind, and costs under a number of other heads, are known to be considerable. Although their precise amount is not easily determinable, they aggregate to a large amount, and if no arrangement is made for meeting or reducing them, they form a formidable obstacle in the way of a complete solution.

In the year 1924–25, the extra-budgetary resources can be relied upon to provide 200 million gold marks, being interest on railway bonds. The question arises whether a further sum can be provided.

We first considered whether Germany would have sufficient credit at the outset to meet the full amount of her charges by loans or capital assets. In our view, it is impossible to say that she could obtain funds, until her position is well established, adequate to discharge them. But it does not follow that the most pressing of the demands cannot be met, for a considerable sum can certainly be raised upon the good security that the plan provides, with a clear prospect of improved international political position and of stability. The question is, therefore, whether the claims upon Germany can be so reduced by agreement among the Allied creditors as to come within this potential credit. If they can, then obviously the greater the reduction, the more moderate the sum to be raised and the greater the probability of Germany successfully raising a loan. If not, then the loan will not be forthcoming, stability cannot be ensured, and neither this plan nor any other can come into being. The successful launching of the scheme depends therefore upon three main factors:

(*a*) limitation of payments for all purposes to 1,000 million gold marks, of which at least eight hundred millions must be spent in Germany for the first year, and thereafter to such sums as are available under the plan during the succeeding years;

(*b*) co-operation between the Allies and Germany in securing political conditions which will incline the investors of the world favorably towards the German loan upon good security; and

(*c*) a loan of 800 million gold marks which will serve the double purpose of assuring currency stability and financing essential deliveries in kind during the preliminary period of economic rehabilitation.

It will be seen that under the plan, among the different revenues available, ample and sufficient security could be found to form the basis of such a loan, both as to interest and sinking fund.

Obviously, the first loan should be fully secured, but it is equally true that it is neither in the interest of a first loan nor of the Reparation Commission to create a situation which would prejudice the flotation of subsequent German loans or the realization of the capital assets provided for in the plan.

The amount required for the service of this first and any subsequent loans must be deducted from the sums which in subsequent years can, in accordance with our plan, be placed at the disposal of Germany's creditors. In effect the loan is only an anticipation of the sums subsequently available which, it is necessary to emphasize, represent in our opinion the maximum burden and therefore one not capable of increase.

It is not for us to offer suggestions as to the priority of claims or how the sums should be distributed. On this aspect of the matter we confine ourselves to stating that in the interest of currency stability and to aid the successful inauguration of the new bank, the proceeds of the loan should be used exclusively for financing internal payments, such as deliveries in kind (whether direct or by the operation of the Reparation Recovery Act), and that part of the costs of the armies of occupation which represents expenditure in Germany by or on behalf of these armies. But we do assert that if, as we believe, Germany's credit will be good enough to float such a loan, it is natural and necessary that her credit should be employed to ease the burden on her creditors during the period of her own recovery.

In the year 1925–26, the problem is somewhat different in character. The reasons which make a foreign loan essential in the first year should have disappeared. If confidence is in process of re-establishment, a large reflux of capital to Germany is to be expected. People whose object in transferring money abroad or in hoarding foreign notes within Germany has been simply to ensure against further loss, will, to a great extent,

reconvert this capital into German currency. Other things being equal, the German currency and exchange situation will continue to improve, a phenomenon which has been clearly exhibited in the last twelve months in Austria.

The exchange position of Germany will, therefore, be relatively strong and her budget position relatively weak. In the few succeeding years the position will be exactly reversed; the exchange will become normal, but weaker than during the abnormal period of reconstruction, while budget resources should be enormously strengthened.

In view of these facts, we see no danger, and perhaps positive advantage, in requiring that during 1925–26 deliveries in kind and that part of the costs of the armies of occupation spent in Germany by or on behalf of the armies, should be financed up to 1,220 million gold marks by sums raised in Germany itself.

The above sum is made up of (i) railway interest, partly carried over from the first year, amounting to 595 million gold marks (ii) the transport tax to the amount of 250 million gold marks (iii) interest on industrial debentures amounting to 125 million gold marks, and (iv) 250 million gold marks from the budget provided by the sale of Railway Preference Shares belonging to the German Government. If for any reason the whole of the above sums are not provided, the balance should be raised by a German internal loan.

XVI. Organization

The Committee's plan provides for a Commissioner of the Bank of Issue, a Commissioner of Railways, a Commissioner of Controlled Revenues, the last-named to have under his control a certain number of sub-Commissioners severally intrusted with the special revenues under consideration, and if the need arise for a Commissioner of Industrial Debenture.

The plan also provides for an Agent for Reparation Payments.

In order that the machinery thus set up by our plan may function properly, both in relation to the Reparation Commission and in its German environments, there must be an agency between the Reparation Commission and the various Commissioners. We suggest that this co-ordinating agency devolve upon the Agent for Reparation Payments.

The Commissioners would retain all responsibility for the carrying out of the task intrusted to each, only subject to such co-ordinating policies as may prove necessary in order to avoid any duplication of effort, overlapping of functions, unnecessary friction and generally all interference with the harmonious working of our plan.

In case of a difference of opinion between one Commissioner and the "Agent General for Reparation Payments" in his capacity as co-ordinator,

the Commissioner can appeal to the Reparation Commission. The existence of this right of appeal will have a salutary effect upon the relations of the co-ordinating agency and the different Commissioners.

To facilitate the interchange of information which will develop a situation in its entirety for appropriate action, a general co-ordinating Board is also suggested in which the various Commissioners of representatives named by them will participate together with the "Agent for Reparation Payments" and the Trustee. The co-ordinating board is to have advisory powers only and is for the purpose of giving information to the Agent-General to assist him in preparing co-ordinating orders.

These suggestions are naturally far from exhausting this important subject, one of the most important of our plan. They are laid down simply as an indication, as the drafting of the rules for such a co-ordination will devolve upon the Reparation Commission, so far as they have power, and upon the various Governments.

Rules should be laid down for the rendering of periodical reports and for the publication of such as the public interest may require.

We desire, however, to record in this connection that the expense of the new machinery provided for by the plan can and should be contained within limited amounts, and in any case be included in the annuities already contemplated.

Trustee.—The plan also provides for the appointment of a Trustee with the following duties.

He will receive and administer the railway and industrial bonds and will be accountable to the Reparation Commission for these and all other securities.

He will ensure the service (interest and amortization) of the railway and industrial bonds by means of funds remitted to him for this purpose by the Agent for Reparation Payments.

He will fix the conditions of the amortization of the bonds and if necessary the redemption at par of all or a part of the bonds not yet amortized, by means of any supplementary payments which may be made by the German Government, the Railway Company or industry.

With the authorization of the Reparation Commission and for its benefit, the Trustee may sell the bonds which he holds, and may use the mortgage bonds and deeds which he holds to secure new securities which he may himself issue.

Both the Agent and the Trustee should be appointed by the Reparation Commission.

In framing the organization of control, the Committee has adopted as fundamental the principle that, if the plan is to yield the best financial results, it is desirable that control should be of such a nature as not to involve the assumption of responsibility by the Commissioner for German

Administration, though the Committee recognize that this principle cannot be adhered to in case default under the plan arises.

XVII. The Nature of the Plan

In concluding this part of our report, there are several points which we desire to emphasize.

In the first place we regard our report as an indivisible whole. It is not possible, in our opinion, to achieve any success by selecting certain of our recommendations for adoption and rejecting the others, and we would desire to accept no responsibility for the results of such a procedure nor for undue delay in giving execution to our plan.

In the second place, as we have remarked earlier, our plan is strictly dependent upon the restoration of Germany's economic sovereignty, and it is important to observe that the operation of the plan will be proportionately postponed if there is a delay in effecting that restoration. The various dates which we mention in the report must be interpreted in the light of the above remark.

From the standpoint of the taxpayer in creditor countries the plan means in due course an annual relief to the extent of two and one-half milliards, plus such additional amount as the index of prosperity may provide.

On the other hand, from the standpoint of the taxpayer in Germany, the plan means a direct burden of only one-half this sum, *viz.*, one and one-quarter milliards per year, and the transport tax, plus such additional amount as may represent only a relatively small share in increased prosperity. The German taxpayer can look without anxiety upon the remainder of the payment of two and one-half milliards, for it represents a relatively small burden on German industry, which has been the beneficiary of substantial special profits, and only a modest return on a large capital invested in railroads which are yielding him no relief in taxation in his budget at present, such capital having been accumulated prior to the war. We are satisfied that the contributions from railway and industrial debentures will not be reflected to any substantial degree in a burden to the individual German taxpayer; as regards the railways it will only require the same kind of return as exists in similar enterprises in many countries.

Our purpose has been to set up a machinery which will secure the maximum payment which Germany can make in each year in her own currency. We do not speculate on the amount which can annually be paid in foreign currency or on Germany's capacity to make a total payment.

The Committee is confident that it lies within the power of the German

people to respond to the burdens imposed by the plan, without impairing a standard of living comparable to that of the Allied countries and their neighbors in Europe, who are likewise subject to heavy burdens, largely resulting from the catastrophe of the war.

We have not concealed from ourselves the fact that the reconstruction of Germany is not an end in itself. It is only part of the larger problem of the reconstruction of Europe.

We would point out finally that while our plan does not, as it could not properly, attempt a solution of the whole reparation problem, it foreshadows a settlement extending in its application for a sufficient time to restore confidence, and at the same time is so framed as to facilitate a final and comprehensive agreement as to all the problems of reparation and connected questions as soon as circumstances make this possible.

PART II

I. The Currency Position

The Conditions at the Outset of our Enquiry.—When we started our investigations the value of German currency had been stable for some two months. It would not have been pretended, however, by any authority, that German currency had been stabilized. It would perhaps be juster to apply the term "unstable equilibrium" than the term "stability" to this transition period, which has fortunately continued to the present day. The elements of permanent stability, even if the repercussions of the budget situation are momentarily left out of account, were then and are still wanting.

One of the first steps which the Committee took was to request Dr. Schacht, the Governor of the Reichsbank and the Currency Commissioner of the Reich, to give evidence before them with a view to their being fully informed of the existing currency situation.

Quantity of Currency.—The total circulation, although so enormous in nominal values, was, when reduced to its gold equivalent at that date, something over 3 milliard gold marks only, whereas the pre-war circulation in Germany had amounted to 6 milliard gold marks. *Prima facie*, therefore, the amount of currency seemed deficient rather than excessive, and not likely in itself to be a cause of further depreciation. In proportion as the German mark dwindled in value and became less and less utilizable for the threefold function of standard of value, instrument of payment and medium of saving, foreign currencies naturally became by force of circumstances, more and more sought after in Germany. The Germans resorted increasingly to the currencies of countries with a comparatively stable exchange, not only to invest their savings, but also to define and even settle their transactions, and the presence of such

currencies in Germany increased ever more as the mark depreciated further.

In spite of this extended use of foreign currencies in Germany, the shortage of purchasing power made itself increasingly felt, leading first the German Government, then the States and Municipalities, and finally the great industrial and agricultural organizations, and even private firms, to supplement the currency shortage by new instruments of payment. These token currencies, expressed in gold or paper marks, sprang up in Germany in the summer of 1922, at a moment when the need became urgent to find new means to meet the requirements of current transactions, the old mark on the verge of its collapse no longer answering such requirements.

At the end of 1923, we find in Germany an absolutely heterogeneous monetary circulation, which included—besides the foreign money in circulation or hoarded (dollars, pounds, florins, gulden, Swiss francs, French francs, Scandinavian crowns, etc.)—the old paper marks, Dollar Treasury bonds (Dollarschatzanweisungen), bonds of the Gold Loan (Wertbeständige Anleihe), 6 per cent. Treasury Bonds (6 per cent. Schatzanweisungen), rentenmarks, and lastly a whole set of odd emergency currencies (Notgeld) expressed either in gold or in paper marks.

Backing.—The security of the Rentenmarks is a mortgage on real and to some extent on personal property. The so-called gold loan is repayable in legal tender on a gold basis but has no gold backing. The various forms of emergency money were for the most part based on no security at all. The gold reserve of the Reichsbank amounted to some 467 milliards, but 200 million thereof was specifically earmarked as security for the dollar loan issued by the Reich in 1923.

Taken as a whole, therefore, the liquid backing of the currency is wholly inadequate for a permanent system.

Interchangeability.—The Rentenmark is not actually legal currency within the country nor available for any purposes of foreign trade. The old currencies with their vast denominations remain the legal currency, but prices are everywhere expressed in Rentenmarks. It is therefore obviously necessary that payments should be made indifferently either in Reichsmarks or in Rentenmarks at a fixed relation between them. The Reichsbank accordingly accepts Rentenmarks at the rate of one Rentenmark for 1 billion paper marks, and Rentenmarks are also accepted in payment of taxes at the same rate.

Annex 7 to the present report shows in some detail the curious monetary situation in Germany at the end of January last.

The Present Tranquillity.—As the Committee have remarked, the elements of currency stability were not to be found in such a situation. The temporary equilibrium of the German exchange has been ascribed

to various causes by different authorities; some lay stress upon psychological factors, and in particular a renewal of confidence, the exact basis of which it would be difficult to determine, but which took account of the efforts being made by the German Government to balance its budget, and of the appointment of the Committees of Experts by the Reparation Commission; others refer to a decrease in internal consumption which with the lack of credit, accompanied by what was probably an excessive restriction in importation, reduced the demands both for the circulating medium and for foreign currencies.

Credit Facilities.—The exportation of the Rentenmark is prohibited. Its existence was of no assistance in the maintenance of foreign trade. The Reichsmark was too discredited to be any longer available for the purpose of meeting foreign obligations. Credit was only obtainable abroad at dangerously high rates of interest.

At the same time, the currency depreciation and its secondary effect had produced a serious dearth of liquid capital in Germany itself. The stringency may be indicated by the fact that (according to figures furnished to us) the Savings Bank deposits had fallen from 10,700 millions at the end of 1913 to 760 [1] (million) gold marks at the end of 1922; the credit accounts in the eight large Berlin banks amounted to 7,400 million at the end of 1913, and to about one thousand million at the end of 1922. The figures for 1923 are not yet available but can scarcely exhibit an improvement. Leaving for the moment out of account capital which in one form or another had been exported, liquid capital in monetary forms liable to depreciation had been steadily converted into fixed assets with a permanent intrinsic value. The private individual had purchased consumable commodities, while industrial enterprises had largely extended their plant and equipment. The motor was in good, perhaps in unusually good, condition, but the motive power and lubrication were apparently lacking.

Immobile Credit Resources.—On the other hand, there was general agreement that not inconsiderable resources were available in the shape of German balances abroad and foreign currencies in the pockets of the population in Germany itself. This latter item alone has been estimated at 1.2 milliard gold marks by the Committee appointed to consider the means of estimating the amount of German exported capital. It was reasonable to suppose that a large proportion of these resources would be available if complete confidence in the stability of German currency could be restored and maintained.

As stated in Part I, the Committee consider that this end can best be secured by the institution, under proper safeguards, of a new Bank which should absorb the existing currencies, liquidate the Rentenbank and

[1] French text reads: 755.

transform the Reichsbank, and provide, against recognized banking cover, the foreign currencies necessary for the revival of Germany's languishing trade. The plan for this Bank is given in Annex I.

Psychological considerations seem imperatively to require an institution which should be so far new in its policy and its administration, as to detach it entirely from the errors of the recent past and restore the older traditions of German banking.

The Interim Bank.—While coming to this conclusion and while reducing the general plan to details, the Committee had to deal with an actual change in the situation as it originally presented itself. The Committee were informed that a scheme for a gold bank was in preparation. It was expressly and admittedly limited to providing the means of carrying on foreign trade. When first submitted it contained some features which the Committee would not have recommended, and it omitted others which seemed to the Committee to be essential to any permanent settlement of the problem as a whole. Moreover, an attempt to settle particular difficulties in isolation and without reference to other essential requirements appeared to the Committee to involve certain risks.

The Committee therefore without expressing any opinion on the plan as given to them in outline, assured themselves in consultation with the authorities responsible for Germany's monetary policy that the Bank would be so organized as to facilitate its absorption into a new bank of issue which might be set up in accordance with the recommendations of the Committee.

II. Considerations Regarding the Measurement of Germany's Burden

(a) *Commensurate Taxation*

In Part I we refer to the fact that we have taken full account of this principle. But it is necessary for us to make some further observations thereon.

The principle of the "Commensurate Burden", as it has been called, unimpeachable in abstract statement, is exceedingly difficult to translate into quantitative measurement as a basis for practical action. While obviously sound and just, it does not easily admit of precise and arithmetical calculation. What at first sight seems to be a simple conception, on examination is found to be complex and in some respects not reducible to exact definition.

Now the ordinary expenditure which has to be provided for in the German budget is reduced, in part by the restriction upon her military preparations, but above all by the practical extinction of her internal debt.

If Germany had sustained the burden of her own debt, as the Allies have done, and not obliterated it by inflation, she would have had to raise 4½ to 5 milliards per annum in addition to her domestic expenditure. This would make it both just and practicable to add a provision in her budget which should bear some correspondence to the provision made in the Allies' budgets for their war expenditure.

But the raising of any particular sum from one section of her inhabitants, to be paid back to another section within her borders, is a "burden" in a different sense from the payment of such a sum by the whole population to people abroad—different in more than the economic sense—and it is difficult to bring such a task into direct relation with the problem of reparations. It is a measure of what individual taxpayers, rather than a nation, may be capable of bearing.

In the first case the interest paid forms a part of the national income, as it is expended it provides profits and a stimulus for internal trade and so increases further the income of the country, and in particular it is itself an important source of internal taxation.

A payment in respect of a debt to foreigners has no comparable advantages to the country making it. The extinction of the German debt has after all been at the expense of her own nationals, who are her taxpayers: they have sustained as holders of German bonds, not only the burden which they have already escaped as taxpayers, but that which they would have borne in future years to meet the service of the internal debt if its value had not been destroyed by depreciation. The process of extinction has indeed (except in its incidence as between different individuals and classes) had the same results both to the Treasury and to the German taxpayer regarded collectively with a capital levy devoted to debt extinction.

The loss incurred by individual holders of debt is exactly offset by a corresponding profit accruing to the taxpayers as a whole.

It renders both practicable, and just, a greater charge for other war debts than would otherwise have been possible. A large proportion of the richest taxpayers of the country have obtained the relief without themselves sustaining the cost. They are a proper source of taxation commensurate with that weighing upon the corresponding classes in Allied countries and in particular upon the industrial classes. To them as individual taxpayers, a tax is a tax whether its ultimate destination is the payment of a war debt due to fellow citizens or to foreigners. And under the system we propose it may be regarded as a tax in internal currency without the complications which result from the question of how sums so received can be converted into foreign exchange. For this special problem we provide special safeguards. The German taxpayer should regard a payment in respect of war debt exactly as an Allied

taxpayer regards a similar payment. Its ultimate destination need not concern him, and is certainly no justification for him to attempt to evade it.

The facts as to the burden actually being borne by the Allies for debt service are perhaps a better approach to the actual problem. If the German burden per head for debt were as onerous as the burden for debt existing upon the inhabitants of Belgium, France, Great Britain and Italy taken together, then the German debt charge would approximate to 6 milliards. But in this case again, the charge is to a considerable extent in the nature of a redistribution of annual wealth among the members of each nation and has little relation to the problem of a national burden in the collective sense.

In the third place, it may be said that if the German people were burdened as heavily as the members of the most heavily taxed of the Allied countries are taxed for all purposes, *excluding debt charge*, we should have an expression of the commensurate burden principle in a limited and strictly defensible sense. But even here, theoretical and practical difficulties prevent exactness.

In the search for the "commensurate", it is not enough to compute the burden as a per capita charge, it must be related to per capita wealth or income; it is considered by many that justice requires a "minimum of subsistence" to be first deducted from such per capita income; the amount of the minimum is not exactly determinable and it seems to vary as between different countries of different climates, different economic development and different customs, *e.g.*, as between Spain and the United States; it may even vary between different periods in the same country. As a rough working assumption, such a minimum may be regarded as varying in proportion to the per capita income of different countries. Furthermore, over any period of time this burden per head in the Allied countries must change and what might be a valid comparison to-day in taxation in those countries may be quite different in ten years' time. The comparison of statistics of total taxation, national and local, in each country presents many technical difficulties. Moreover, statistics of total national income and income per head are at present either very defective or wholly lacking. Notwithstanding these difficulties it is possible to compute roughly what total budget charge would be borne by the German people if they were subject to taxation (central and local) on the same scale per unit of income as in Great Britain, and by deducting from the result the necessary domestic expenditure to derive an arithmetical balance which could be, theoretically, at any rate, assigned to the payment of reparation.

Combining these various aspects, we have reached the view that the "commensurate burden" principle for Germany, when she is fully restored

to economic prosperity, would more than justify all the practical conclusions we have set down and that they are in every way morally defensible.

There are, of course, good reasons of a political, economic and psychological character for confining the actual requirements of budget accumulation within Germany to limits well below the figure that would be arrived at from the consideration of this principle by itself. Different individuals will differ in the degree of importance they assign to such reasons. It is perhaps unnecessary to state these aspects in detail and sufficient to register our united conviction that all our recommendations and suggestions are well within what can be morally justified on the principle of "commensurate burden", whatever limitations may be placed upon that principle. In this sense, therefore, the justice and moderation of our proposals ought to be fully recognized by the German people themselves.

In the above discussion, we have disregarded the question of railway profits. Inasmuch as budget revenue is not derived from profits on railways elsewhere, no question arises as to whether railway profits are a burden (in the sense of a tax). Such profits in other countries form a part of the ordinary profits of private concerns accruing to individuals and it may be said therefore that in Germany the position of the taxpayer is the same whether such profits go to individuals or to the Allies as reparation.

On the other hand, the German railway profits might go in relief of taxation burdens, if they were not applied to reparations. Moreover it is difficult to say that the abstraction of the profits of so important an undertaking as the railways of a country from that country, instead of leaving them there to be enjoyed individually or collectively by the inhabitants, is not a "burden" in the international sense, even if it is not a part of the individual "*commensurate burden of taxation*".

(b) *Export Statistics as an Index of Prosperity*

In Part I we have suggested an index of prosperity and indicated that in our opinion it was a fairer test than the existing index, namely, export statistics. The use of the latter in isolation[1] has certain definite defects, to some of which we desire to draw attention.

(1) Foreign trade only covers part of the area of total trade, and if foreign trade at a given moment only covers a small part of the area, total trade may be moving in a direction opposed to that of foreign trade.

(2) Artificial conditions, such as alterations in transport charges, may

[1] French text reads: *employé isolément.*

affect the trade figure in the absence of any real change in the value or volume of exports.

(3) The export statistics, more especially when no export duty is in force, may be subject to changes in presentation, and frequently furnish material for controversy.

(4) Reparation payments themselves are, and can only be financed by, an excess of exports. It follows that an increased reparation payment in one year furnishes an increased base for the following year. This process is cumulative and the basis for the index is continuously raised, so to speak, at compound interest, even though actual prosperity may be stationary.

(5) In a country with an economic life such as that of Germany, invisible exports may increase more rapidly than physical exports, and there may be a growing prosperity which is not reflected in export statistics.

(c) *Measurement by Yield of Particular Taxes*

We have laid some stress in Part I on the fact that certain revenues were chosen strictly as guarantees and that fluctuations in their yield were not to be regarded (save in 1926–27 and 1927–28 exceptionally) as determining the payments due by Germany. The following are the broad principles justifying this standpoint.

(1) It is desirable that the German Government and the German people should be themselves interested in increasing the yield of the controlled revenues, and should be under no temptation to discriminate against these taxes in favor of others.

(2) The year's liability which, under our plan, will include an allowance for increased prosperity, will already have been established by one test, in which, moreover, the yield of the controlled revenues indirectly forms one element. Having applied one test, it would be unfair to apply a second, and to choose whichever gives the higher result.

(3) The year's liability ought not to vary with the fortuitous yield of particular taxes. The character and level of these taxes should be chosen with a view to their suitability as security and not with a view to their appropriateness for fixing obligations.

Unless the liability of the year is definitely fixed and unless the German Government can proceed to estimate its resources by reference to the whole and not part of the taxable field, the difficulties of forming a satisfactory budget are aggravated, and German credit is affected.

(4) Common sense requires that the reparation liability ought not to rest even indirectly upon the rate of particular taxes, or otherwise every change in rates or methods of collection, even when thoroughly justified

by social or political reasons, must be scrutinized with such a degree of care and perhaps suspicion that it becomes a fruitful source of friction and dispute.

III. The German Budget for 1924–25 and the Fiscal System

The 1924–25 Budget.—The German Government prepared and submitted to us the outline of a provisional budget for 1924–25 which estimates a small excess of receipts over the ordinary administrative charges of the country. (Annex 8.)

While the Committee have spent a great deal of time upon the details of this Budget, and have put many questions in writing to the Government and in oral cross-examination of the officials upon its chief features, the subject is so vast in its ultimate implications, especially having regard to the constitution of the Reich, that no finality could possibly be reached, especially in a matter which to the Germans themselves is full of difficulty and doubt. Nevertheless we believe that the ground has been explored to a sufficient extent to justify us in feeling that even a prolonged examination could not substantially alter our conclusions. To some of the more salient points we shall make particular reference.

The conditions under which the budget estimates were made.—It should, however, be first remarked that in general the budget must necessarily be in the nature of an experiment and the individual items in it somewhat arbitrary estimates. At the time of our investigation Germany was passing through an acute economic crisis, the direct result and the culminating point of a depreciation of the currency so catastrophic as practically to destroy the currency and reduce the budget to all but a shadow. The habit of saving has been destroyed, and it will require time and the restoration of confidence to re-establish it. The existing wealth is mal-distributed in an almost unparalleled degree. The cessation of depreciation, with the consequent removal of the premium on export and the stabilization of prices at a level which is momentarily at any rate above that of the world level, has had important reactions. Finally the state of employment and the fiscal and economic machinery of Germany have been violently deranged by the events of 1923; a return to normal conditions in this respect cannot be effected overnight.

Assumption underlying the budget.—It should be most carefully noted that the budget is not made up to represent the financial expectations of actual existing conditions. As we have remarked above, the general budget as presented anticipates a credit balance, and the German Finance Minister appeared to be reasonably confident of his ability to live up to these estimates, provided three essential conditions were fulfilled:

(1) that the Bank of Issue which would serve as a basis for the grant of credits would be established;
(2) that the full development of German economic life should not be restricted by the severance of the Ruhr and the Rhineland;
(3) that Germany enjoyed complete freedom in her economic relations with other countries.

The first and second of these conditions will be fulfilled if our recommendations are accepted, and they appear to us to be essential to budget equilibrium. As regards the third, we understand that Germany's commercial freedom is restored under the terms of the Treaty in less than twelve months' time.

We are not, however, satisfied that the budget as framed is not exposed to a real risk of deficit. The German fiscal year begins on the 1st of April, and even if our recommendations are accepted a certain lapse of time will be necessary before an absolutely normal administrative situation can be re-established.

For this, if for no other reason, we conclude that on the existing basis of taxation the estimated revenue may not be realized, even allowing for certain possible underestimates under particular headings.

On the expenditure side, the only item on which a saving may emerge of any great significance relatively to the possible deficit is the provision of relief for unemployed. The sum allocated to this purpose (500 million gold marks) is estimated on the assumption that the existing amount of unemployment will continue throughout the year. It appears to us that this is unduly pessimistic and any reduction in the number will both relieve the expenditure and the revenue side of the budget, inasmuch as the wages earned by a laborer are subject to direct, and through the medium of his expenditure, to indirect, taxation.

Taking one item with another, however, we cannot justifiably state that the results are likely to be any better than have been indicated in their estimate. But if, for this year 1924, there was a deficit (we have just seen that this possibility cannot be absolutely disregarded) we can assert that it would not be of an extent to endanger the stability of the currency, or force the German Government to have recourse to other than the conventionally authorized expedients for meeting it, such as increases of existing taxation, further emergency taxes, or small internal loans.

Moreover, so many of the settlements due in the year 1924 will fall to be made in the year 1925–26, that fiscally these two years tend to be merged into one period and, as will be seen later, we have no doubt that in that period ordinary budget receipts will fully equal ordinary budget expenditure.

Special Features in the Fiscal System. The Income Tax.—We do not propose to comment in any detail on the existing taxes, but there are certain broad features which call for notice.

We have been unable to escape the conclusion that the wealthier classes of Germany have, in recent years, not been reached properly by the system of taxation in force, either to an extent which the taxation of the working classes would justify, or to an extent comparable with the burden upon the wealthier classes in other countries.

It is, of course, common knowledge that, with a continually depreciating currency, many classes of business men tend to obtain as profit a larger share than is normal of the total produce of industry. Many of their expenses are in the nature of fixed charges; moreover, generally speaking, paper mark wages have not advanced as rapidly as paper mark prices have increased, so that the share of the business proprietor in the total produce of industry, altogether apart from the special profits made by him on redeeming debentures or mortgages at nominal figures, has tended to be greater than is normal.

Direct taxes, such as income tax, are necessarily assessed for completed periods and during a time of rapidly rising prices the burden of any particular year, based on the profits of previous years, is small relatively to the profits of the year itself. Moreover, the process of return, assessment and appeal for such a tax necessarily occupies further time, and by the date when substantive liability is fixed in paper marks its real burden is far less than was originally intended. Further delay in payment of that liability intensifies this effect. It was not until the inflation movement was well advanced in Germany that any serious effort was made to combat this evil. Although the rates of income tax according to the nominal scales rose to nearly 60 per cent. on the highest incomes, statistics of cases furnished to us by the German Government show that in effect, even in the year 1920, the burden of actual tax (measured in gold) on the higher incomes, instead of being 50 to 60 per cent., was only half those rates upon the income of the year (measured in gold). This was undoubtedly one of the primary causes for the budgetary difficulties of Germany, and the disparity was very much greater in the later periods. It can be said with confidence that the wealthier classes have escaped with far less than their proper share of the national burden, and we have put it as a matter for the serious consideration of the German Government whether they should not, facing even the admitted administrative difficulties, review the assessments of recent years in the case of these particular classes of taxpayer and re-assess their liability upon a gold basis.

The whole system of direct taxation went to pieces in 1923 and, for 1924, the income tax, as is easily understood, is in abeyance. The profits of industry in 1923 expressed in nominal figures of paper marks have no

meaning unless they can be resolved into the profits of the particular dates on which they were made and then reduced to a common denominator of gold values. A profit of 1,000 marks made in January, 1923, is obviously quite a different amount from 1,000 marks made in September. We can well believe the German Government finds it impossible to use the year 1923 as a basis for income tax assessment in 1924.

They have been driven to temporary expedients of a very makeshift character, not rising to a higher normal burden than 25 per cent., with the intention of re-scheming and re-assessing the income tax proper in 1925.

These expedients do not re-assure us upon the general question as to the taxation of the wealthy classes, and, in our judgment, if they desire the Allies and their own working classes to realize their good faith in this matter, the German Government should publish at an early date their definite intentions with regard to the scales of income taxation that are to be applied during 1925–26 to the actual profits of 1924–25 for the final adjustment of the fiscal year 1924–25.

The 1924–25 budget estimates 1,344 million gold marks as the income tax yield, of which all but 480 million gold marks is estimated to be assessed on wages.

We have drawn the German Government's attention to the absence in the temporary measures of any proper provision at present for dealing with income from abroad. They were asked to furnish us with details of the comparative position of different incomes drawn from dividends in the years 1920–21, 1923–24 and 1924–25. The reply is given in Annex 9 as indicating the present position of direct taxation in Germany.

Special taxation on those who have specially profited by depreciation of currency.—Currency depreciation, on the scale it has occurred in Germany, has brought into existence a new and special type of "windfall" wealth which is a suitable subject for taxation in an emergency.

The ultimate profit or loss to industry and agriculture as a whole of the depreciation era may be difficult to calculate. There are many cases, however, of industrial and other undertakings which were not only able to make large profits but succeeded in paying off prior charges at a trifling fraction of their value when incurred.

If a mortgage or debenture of 10,000 marks has been paid off for practically nothing, a "windfall" profit to the debtor (at the expense of the impoverished creditor) has been made to that extent. If it has not yet been paid off, but the debt can in due course be discharged by worthless paper marks, the "windfall" is a potential one. In this last case, it has been decided by the German Government to "valorize" the debt at 15 per cent., and the windfall to the creditor is to be restricted to 85 per cent. On this remarkable improvement in his position, the Government proposes to levy a tax of 2 per cent., or 1.7 on the whole debt. In the case

where the debt has been paid off, the Government will take the actual difference between the gold price paid and 16.7 per cent. In our view, such special taxation, if justified in principle at all, as we believe it to be, is justified at much higher rates. But certain rights of taxation are being given to the Federal States which encroach upon this area of taxation, and, for the rest, our proposals (Section IX, C, of Part I) in regard to industrial debentures cover what might otherwise have been independent recommendations under the head of taxation.

Similar extraordinary profits have been made through State subventions, and through the repayment in depreciated currency of bank loans, State advances, and other similar obligations.

The Reich and the States.—The third special feature to which we would refer is the financial relation between the Reich and the States and Communes.

The more complete financial centralization that took place after the war in accordance with the Weimar Constitution has not fundamentally changed the character of the relations between the Reich and the States. Although the Reich is charged with the administration of taxes formerly undertaken by the States, it is under obligation to cede the major part of the proceeds of the income tax, for example, to them. The States discharge wholly or in part many of the functions of Government, and there is no clear principle connecting their resources with their obligations. When in difficulties, they press the Reich for larger subventions (as percentage of the yield of taxation) just as in turn the needy Communes press the States for greater financial aid.

The situation has hitherto been governed by merely political or administrative opportunism rather than by clear financial principle. The Reich can either yield to the pressure for higher percentages in subvention or they can confer upon the States the right to exploit particular fields of taxation for themselves. The check by the States upon the Communes is equally unsatisfactory. It is almost impossible to ascertain the true cost of any of the single functions of Government in view of its division between these three constitutional entities, and in the absence of proper aggregated financial statistics of the States and still more of the Communes.

The changes that have taken place completely falsify any comparison which could be established between the pre-war Reich budget and that for 1924–25.

Moreover, these relations are once more under review. During the period of rapid depreciation, the resources of the States and Communes, together with the regular allocations from the revenues of the Reich, were inadequate to their needs. Their financial situation was similar to that of the Reich itself.

The expedient adopted by the Reich of multiplying the issue of notes was not open to the States and Communes, who had necessarily to be supplied with continuously increased subsidies from the Reich, and this proceeding was one of the principal causes of the utter breakdown of the German finances.

The resultant chaos has been such that no up-to-date statistics are available, and the States have not yet framed their budgets on a gold basis. It is in our opinion essential that at the earliest possible moment the preparation of complete statistics of the receipts and expenditure of the States and Communes should be resumed.

The importance of the question may be seen if it is realized that the Reich budget, after allowing for the subsidies, contains little more than one-third of the total expenditure, one-third being met by the States and one-third by the Communes. It would be quite possible for the Communal budgets to be enjoying considerable prosperity at the same time that the Reich budget is in serious difficulties.

We do not pretend to be in a position to make detailed recommendations; the subject is a complicated one and involves the consideration of social and political factors, many of which have deep roots in historic traditions.

Moreover, if our recommendations are accepted in their entirety, self-interest alone may almost confidently be relied upon to force the German Government to make provident arrangements with the States, and it has already given us an assurance that the régime of increased subsidies has come to an end and will not be revived.

It is clear, however, that in the near future the German Government must take steps to put the relations between the Reich and its component parts on a regular basis which shall ensure that the latter are not a constant drain upon federal resources; the existing hole in the budget must be plugged.

It does not suffice, in our judgment, for the Reich to remain in supine contentment with the present situation merely because it has been the result of constitutional evolution. Germany waged war as an undivided whole and the financial responsibility of the Reich to the Allies cannot be qualified or weakened by an attitude of passive acquiescence in the undiminished rights of subordinate areas. So long as Germany has any external obligations they must be paramount, and the resources normally to be assigned to the States and Communes must be clearly defined, and care must be taken to secure that these resources are not more than adequate to legitimate needs.

Where further assistance must be given by the Federal Treasury the amount of such assistance should again be strictly proportioned to the necessities of each case, and subordinated to continually increasing central supervision by the Federal Treasury of local expenditure.

In considering the budget as drafted in 1924–25, we have felt compelled to assume that the assignment to the States amounting to 1,800,000,000 gold marks is an irreducible figure, and that if the States themselves have budgeted for the receipt of this sum the Reich will be unable to escape the liability in one form or another. This is the most probable assumption which we can make in a matter which bristles with political difficulties, and it is supported by the estimates submitted to us of the Revenue and Expenditure in 1924–25 of Prussia, Saxony and Bavaria; in each case deficits are disclosed.

FURTHER COMMENTS UPON PARTICULAR TAXES

1. The Committee recognize that the taxation of each large nation to-day is the product of many factors, including its historical evolution, its economic conditions, its political ideas, its constitutional framework, and its social psychology. What is a good system for one country may be quite unacceptable for another. Even though the same elements may exist in two systems, the importance played by those several elements in the whole may be quite different. If a similar total burden is being raised in two countries, it is almost certain that the manner in which it is being spread over the community and the particular devices adopted to raise it will be very different.

2. For these and other similar reasons we do not regard it as particularly profitable to pass the German budget in detailed review merely to suggest that each particular tax can be raised to a rate or level found in some Allied country for that tax, and thus to impose upon Germany the maximum burden borne under each head in any of the creditor countries. To do this would be to lose sight of the principle we have referred to above, and also to ignore the question of the total burden. For example, to state that Germany could stand increases in the rates on tobacco, beer, spirits, etc., to the level of those in England, while ignoring the existence of her high turnover tax, which England does not impose; or to state that Germany could bear increased rates of death duties, while wholly ignoring the existence of her capital taxes, would be to destroy the balance of her system and be oblivious to the total burden thus accumulated. The Committee would desire to avoid being dogmatic as to the way in which a given sum shall be raised by the German Government. Having come to the conclusion that a given burden can be borne, it is for Germany to suit her own conditions in prescribing the ways in which it shall be obtained. At the same time, diverse as the systems in the Allied countries themselves are, the Committee offer the following suggestions as the subject of their common agreement and as suited, in their judgment, to German conditions.

1. *Tobacco*

Eminent technical experts have made the following suggestions, which we commend to the notice of the German Government.[1]

While they believe that the institution of a Tobacco Monopoly would entail heavy immediate expenditure, thus causing economic disorder, the Technical Experts recommend that the free manufacture and sale of tobacco should only be allowed to continue if subject to the regulations of the following scheme:

(1) No factory, nor wholesale or retail tobacco shop may in future be established, nor may any existing establishment be enlarged without the permission of the State.

(2) The introduction of tobacco substitutes in manufacture is prohibited.

(3) The number of existing factories must be reduced by abolishing, with a fair indemnity, those which are really not industrial in character, while all factories which have been proved by experience to be incapable of producing goods at a fair cost price must be expropriated.

(4) Products manufactured in the various factories shall still be sold with their trade mark, while the sale price to the consumer shall be indicated on each package; each box or packet to be sealed with a band representing the State guarantees.

(5) Existing manufacturers shall form a consortium according to the category of goods produced. This consortium, while collectively undertaking to supply the State with the quantities required for consumption, shall have to deliver its products at its own expense and exclusively to the State warehouses indicated.

(6) The products manufactured shall be bought by the State at a price to be fixed at regular intervals.

(7) Prices shall be fixed in conformity with the results obtained in one or two State factories, to be run for experimental purposes and for the control of prices.

(8) Importers of foreign manufactured products shall be free to continue their business on the sole condition that they sell the imported products to the State warehouses, under the same conditions of delivery as home manufacturers who deliver the goods produced in their factories.

[1] These suggestions are contained in a report drawn up by M. Mayer and M. Aliprandi, which will be put at the disposal of the Reparation Commission, together with a report on indirect taxes drawn up by M. Hulin and M. Mazzucchelli.

In regard to sale organization, the Technical Experts make the following recommendations:

(1) The State shall use the wholesale dealers' warehouses for its own purposes.
(2) Retail sales must be carried out exclusively by licensed retail dealers.
(3) The retail dealers must only sell State products bearing the proper guarantee band, at the price fixed on the package.
(4) The remuneration of retail dealers shall be fixed at regular intervals by a certain rate of commission on the sale price to the consumer, such rate not to exceed an average of 12 per cent. Bonuses within this limit of 12 per cent. would encourage the most energetic retail dealers and thus develop the turnover.
(5) Payment for manufactured products delivered to retail dealers shall be made to the warehouse supplying them by means of cheque or postal order (not in cash and without credit) minus the commission above stated.
(6) A small number of State retail shops shall be instituted, in order to obtain reliable estimates and to control the expenses of sale.

On the basis of this plan, the technical experts make the following estimate of the profit to be obtained by the State:

	Swiss Francs
Cost of manufacture	476,160,000
Manufacturer's profit and additional general expenses (35 per cent. of the cost of manufacture)	166,656,000
Expenses for the warehouse service and general expenses of the sale organization (1 per cent. of the gross receipts)	20,906,400
Cost of delivery to retailers (12 per cent. of the gross receipts)	230,876,800
Additional expenses for transport (80,000 tons × average distance of 25 km. × 0.25 fr.)	500,000
Annuity payment in the event of the indemnification of one-fourth of the present manufacturers	16,975,000
Total expenses	912,074,200
Gross receipts (according to tables V and VI)	2,090,640,000
Net profit for the State	1,178,565,800

That is 856,515,000 gold marks.

Percentage of net profit, 56.4 per cent.

The technical experts have the following observations to make on the above table:

(1) An annuity payment is provided for, which would correspond to the amounts to be allowed for the indemnification of the small factories to be closed down.

(2) The cost prices of a free industry distributed among a large number of factories are higher than those of a monopoly. Consequently, the costs of manufacture under a monopoly system are increased by 35 per cent. in order to allow the manufacturer a reasonable profit.

(3) With this organization, which leaves the factories and retail establishments in their present form, the taxes now collected by the German Government would no longer have to be deducted, with the sole exception of the tax on wholesale dealers to the amount of 6 millions.

Under a system of sale, organized in conformity with this scheme, the technical experts put forward the results of such a plan as under:

	Gold Marks
Gross receipts (amount expended by consumers)	1,523,960,000
Profit obtained by the State from which must be deducted the taxes at present collected by the Reich	856,515,000
Customs, tax on turnover	6,000,000
Net profit obtained by the State	850,515,000

The technical experts consider that it would be preferable to intrust the sale organization to an entirely autonomous organization, the constitution of which might well be based on the example of the Swedish monopoly. On the other hand, it is their opinion that the present fiscal organization of the German Reich should be used for the supervision of the tax.

In conclusion, the technical experts believe that during the first period, which would not exceed two years, the estimate of the guaranteed net profit might be based on the assumption that each inhabitant spends only 26 Swiss francs per annum, which is the figure now obtaining in Austria. Such a figure would yield a net profit of 657 millions of gold marks, on the following estimate:

	Swiss Francs
Gross Receipts 26 × 62 millions	1,612,000,000
Total expenditure[1]	707,917,000
Net profit	904,082,000
or 657,000,000 gold marks.	

[1] Expenditure shown in the table on the previous page reduced by $\frac{36}{38.72}$ with the exception of the expropriation annuity.

To recapitulate, the guaranteed revenues for the payment of reparation which Germany might obtain by the Tobacco Tax would be as follows:

	Millions gold marks (German estimate)
1924–25	498
1925–26	657
1926–27	657
1927–28	856

A considerably larger sum can be realized from the German duties, while decreasing the burden falling on the German consumer. The less efficient factories will be eliminated and substitutes will be abolished; surplus profits of the intermediaries will be reduced, leaving them nevertheless a reasonable margin. Without introducing the monopoly reform, standard factories will be instituted (one or two factories to control costs and few selling shops) and the sales will be strictly disciplined.[1]

The proceeds would be paid in periodically by the "Service of Assigned Revenues", either:

a. in the case of the adoption of the "assiette" suggested by the technical experts, on the basis of 60 per cent. of the gross revenue; (as the technical experts themselves have calculated that 40 per cent. represents purchase price of manufactured tobacco, plus cost of distribution, etc., the remaining 60 per cent. represents an absolutely net profit from the duty) or,

b. otherwise, on the basis of a sum in gold marks for every kilogram of tobacco taxed, according to the various chief qualities of the tobacco; this sum to be fixed by the technical experts.

2. *Indirect Taxes Generally*

The rates appear to the Committee to be unduly low, and, as prosperity grows, to be susceptible of increase without diminishing consumption.

3. *Turnover Tax*

It is our general opinion that this tax should, at the earliest possible moment, be somewhat reduced in favor of other forms of taxation.

4. *Taxes on Motor Transport*

It is considered that the present total burden is too low and that a substantial further sum might be raised without detriment either by a tax on petrol or a supplementary duty on motor cars, or by a combination of these means.

[1] French text reads: *strictement réglementées.*

5. *Death Duties*

The yield from these duties is extraordinarily low, judged by almost any standard. It is not satisfactorily accounted for by the temporary depreciation in capital values which is due to lack of profits and trade output. Not only is the total yield low judged by any test as to capital values, but the actual rates of duty being imposed are also, in the Committee's judgment, inadequate. While not unmindful of the effect of the relation between these duties and the capital tax in general, the Committee thinks that the position disclosed in the following table, compiled by the German Government, indicates that there is considerable room for increased taxation under this head. It will be observed that where the rate in Germany is nominally higher than that in other countries, it is in those scales where the tax may be least influential in its effect upon total yield.

Annual taxation on capital, in the Committee's judgment, tends to become a part of the income tax system and to discriminate between income derived from work and that derived from investment. In this case, therefore, taxation of capital by annual payments is in a different category from ordinary succession duties. (See table, page 416.)

IV. Proposal for Control of Revenues Assigned as Security

It is necessary to elaborate in rather fuller detail the recommendations which we have made in Part I of this report for the assignment of the taxes, etc., on tobacco, alcohol, sugar, beer and of the customs revenue as security for payment of the sums charged annually on the German budget.

As regards the years 1926–27, 1927–28, as already indicated, the assigned revenues will play a special part in our plan. They will not only serve as a guarantee to creditors, but also as a means of measuring the contingent addition to, or deduction from, the total amount of reparation payments laid down in the plan. If the yield of these revenues falls short of 1 milliard in 1926–27 or 1¼ milliards in 1927–28, the reparation payments will be diminished by an amount equal to one-third of such deficiency; on the other hand, if they exceed those limits, there will be an additional payment equal to one-third of the excess; both deduction and addition however are limited to an amount of 250 million in each year.

In 1928–29, and subsequent years, the amount of Germany's obligation is fixed by the standard payment, plus supplementary payment (and into the computation of the latter, the increased consumption of these taxed articles will enter).

The total yield of the controlled revenues will be paid into the account

Fiscal Burden constituted by the Death Duties in Germany, Belgium, Great Britain and France

(Burden expressed in percentage)

Property Left[1]	Germany	Belgium	Gt. Britain	France
In gold marks	Wife and three children			
20,000	1.5	2.1	3.0	3.5
200,000	2.9	2.7	5.0	6.1
2,000,000	5.9	3.8	15.9	11.5
6,000,000	7.5	4.8	22.8	14.4
	Brother			
20,000	7.8	8.3	3.0	23.3
200,000	17.4	11.4	5.0	36.0
2,000,000	30.0	17.0	19.2	50.1
6,000,000	30.0	22.2	25.9	56.2
	Person next of kin			
20,000	18.2	16.7	3.0	36.8
200,000	40.6	22.8	5.0	48.3
2,000,000	70.0	34.8	23.5	61.0
6,000,000	70.0	44.5	29.8	66.5

of the agent for reparation payments as from the time when the plan is put into execution.

In the first year in which there is a charge on the budget and in all subsequent years, the amounts required to meet the charge will be retained and the balance will be periodically released to the German Government.

We propose that there should be one Commissioner to supervise the controlled revenues and under him a Sub-Commissioner for each of the five controlled revenues.

In order that the Reparation Commission may be in a position to secure

[1] The foreign currency has been converted into gold marks on the basis of the average rates of exchange quoted for the currency at issue on the Berlin Stock Exchange in the month of January, 1924. According to these quotations 1,000 gold marks were equivalent to:

55.5 pounds sterling in round numbers, or
5,000 French francs in round numbers, or
5,550 Belgian francs in round numbers.

an officer of the greatest experience and efficiency as Chief Commissioner, the area of selection should be as wide as possible and not confined to the Allied countries.

He should have the assistance of a consultative and advisory committee on which each of the interested Allied countries would be represented.

The various German services of the assigned revenues would be obliged to deposit, through the receiving offices, immediately on receipt, the amount received under the head of the revenues in question at the nearest branch of the Central Bank acting as treasurer.

A. *Funds.*—The separate branches should pay the sums into the Central Bank to an account at the disposal of the Commissioner, who should afterwards provide for the periodical "reversements" to the German Government of sums in excess of the proportion of the year's Peace Treaty payments accrued to date.

B. *Audit.*—The Commissioner would impose such methods of independent audit as he might desire to ascertain that all assigned revenues:

(1) were properly obtained from the public, and

(2) flowed through the control administration.

C. *Detailed Responsibility for Management.*—He would not be obliged to assume responsibility for detailed administration except in the case and in the manner indicated below. It would be his duty to see at all times that the administration was reasonably efficient and the accounting system honest and accurate. But since the interests of the Allies are not affected so long as the revenues are sufficient, with an adequate margin, to meet the annual charges, it would not be his duty in such circumstances to interfere with the details of Control.

He would therefore not normally be obliged to insist on the exact tariffs or the exact form of administration which would, in his view, secure the utmost yield, and he would not therefore be obliged (unless the need arose) to assume the responsibility of detailed direction with the administrative expense of staff, etc., which that would involve, nor would he be required to have such an elaborate and expensive accounting and calculating personnel as would enable him to certify that every mark was accurately accounted for (which is obviously a very different thing from seeing that the system is honest and efficient).

If the need arose his control would become automatically more active, more responsible, more difficult and, of necessity, more expensive. For if the revenues were in danger of being insufficient, it would be his duty to take every possible measure to increase their productivity. This increase in the active character of the control would be in exact proportion to the need for it. He would thus reform and direct administration in detail only if and so far as necessary.

D. *The technical control* would consist, in the ordinary course, of the right:

(*a*) to obtain all information and examine all books;
(*b*) to visit and inspect the factories subject to duties, and to ascertain that approved standards are maintained;
(*c*) to send experts to report and advise and, in case of actual necessity arising, to exercise detailed control;
(*d*) to propose higher technical standards;
(*e*) to require prior advice of all administrative regulations.

In settling the constitution of the Control Body, it should be borne in mind that it may be concerned with the issue of bonds guaranteed by the said assigned revenues, if it is desired to create an international bond other than the railway one.

The German Government should be asked not to reduce the rate of the assigned revenues without the consent of the Commissioner, which would not be given until the consultative committee had had an opportunity of considering the proposal and approved it by a majority; on the other hand, it is considered necessary that the German Government should be encouraged, regard being had to the rates prevailing in other countries, to effect increases in the taxation of alcohol, beer and sugar.

The above system makes it unnecessary, in relation to the problem of security, to insist on an increase in any particular tax, though we suggest to the German Government that it is to their interest, especially having regard to the rates prevailing in other countries, to effect increases in the taxation of alcohol, beer and sugar. But all interference in the German Government's tariff policy is to be avoided.

To sum up this subject we would lay down the following general principles:

(1) The main lines on which the Control should work ought to be decided by the countries interested. These main lines establishing the principle of a control developing automatically as required, and becoming complete control as soon as the revenues appeared to be insufficient, should therefore be laid down in Protocols signed by all the countries whose interests are mainly involved.
(2) These main lines should be elaborated into detailed instructions by international experts (in practice of the nationalities of the countries interested).
(3) With this safeguard, the execution of the control is intrusted to a single impartial person (with the necessary staff) so as to secure the rapid and consistent administrative decisions required for an efficient Control.

(4) His responsibility to the Reparation Commission should not be of a day to day order, but a periodical report should be made by him upon the condition and yield of the gage revenues.

(5) In the event of the revenues for a given year proving insufficient, the whole system outlined in this scheme (working of the railways, a mortgage on industrial property, the control of the revenues assigned as security) will be prolonged as required for the purpose of making good the deficit.

The Committee desires to express its high appreciation of the valuable and efficient co-operation received throughout its task from the General Secretary, Mr. Andrew McFadyean, and to thank his assistant, Monsieur Denis, the interpreters, and all the staff for their ungrudging services.

Paris, April 9th, 1924.

CHARLES G. DAWES, *Chairman*
OWEN D. YOUNG
ROBERT M. KINDERSLEY
J. C. STAMP
J. PARMENTIER
EDGARD ALLIX
ALBERTO PIRELLI
FEDERICO FLORA
E. FRANCQUI
MAURICE HOUTART

ANNEX NO. 1 TO THE REPORT OF THE FIRST COMMITTEE OF EXPERTS

PLAN FOR THE ORGANIZATION OF A BANK OF ISSUE IN GERMANY

I. Name and Location

The Bank, hereinafter designated as the "New Bank", shall bear a new and suitable title, unless, in conformity with paragraph (*b*) Section III below, the Organization Committee shall decide to use the Reichsbank for putting the present plan into operation. It shall be a private corporation, and its charter shall be for fifty (50) years. The New Bank shall have its principal office in Berlin and such branches and agencies as its Managing Board shall determine.

II. Capital

(*a*) The Bank shall have a cash paid-up capital of four hundred million (400,000,000) gold marks, which shall be in registered or bearer shares of one hundred (100) marks each. These shares shall be issued as follows:

(1) 1,000,000 shares to represent the assets of the Reichsbank;
(2) 3,000,000 shares for subscription in Germany and abroad.

(*b*) All shares shall be alike, and after the initial subscriptions have been accepted, no restriction shall be imposed upon their purchase and sale, other than such general restrictions of German law as shall apply to the purchase and sale of shares of other banks.

(*c*) Shares whether sold in Germany or abroad shall be paid for entirely in gold, and/or foreign bills, at their current gold values.

(*d*) Subject to the preceding provision of this Section, the shares of the New Bank shall be allotted and sold on such terms as to prices, times of payment and other conditions, as are most advantageous to the Bank.

III. Organization Committee

(*a*) For the purpose of taking the preliminary steps for the Bank's corporate organization, there shall be created a temporary committee, to be known as "The Organization Committee". This Committee shall consist of two (2) members, the President of the Reichsbank, and one (1) person who shall have been a member of one of the Committees of Experts acquainted with the discussions which resulted in the drafting of the plan for the Bank.

(*b*) The Organization Committee shall have power generally to interpret any ambiguities appearing in the plan, provided always such interpretation

shall not interfere with the principles involved. It shall also have power, if it deems wise, to carry out this plan by the transformation of the Reichsbank, under suitable legislation, rather than by the organization of a new corporation. It shall frame the statutes regulating the administration of the Bank. These statutes shall in particular include provisions concerning:

(1) the form and character of the share certificates of the Bank;
(2) the formalities to be fulfilled for the transfer and pledging of the registered share certificates;
(3) the cancellation of share certificates lost or destroyed;
(4) the method by which the German shareholders shall elect the German members of the General Board;
(5) the nature of the reports published by the Bank, as well as the method and place of their publication;
(6) the nature and duties of the permanent Committees, of the Managing Board and the officials of the Bank;
(7) the administrative Departments to be created within the Bank;
(8) the date and place of the regular meetings of the Managing Board and of the General Board;
(9) the special meetings of the Managing Board and of the General Board.

IV. Administration and Management

The Bank shall be administered by a Managing Board, under the chairmanship of a President, all of whom shall be of German nationality.

V. The President of the Bank

(*a*) For the purpose of this memorandum only, the Chairman of the Managing Board and of the General Board is hereinafter called "the President"; he shall be the managing director of the Bank. Subject to the limitations imposed by law, he shall perform such duties as are assigned to him by the Bank's statutes.

(*b*) The President may be elected from among the members of the General Board, or chosen from outside the Board. The election by the Board of a non-member, as President, shall operate to vacate automatically the seat of that German member of the General Board having a term of two (2) years or more yet to run, whose election was obtained by the smallest share vote, unless some other member of the General Board, having a two (2) years' term or more yet to run, shall resign at the time, and his resignation be accepted by the Board. A President, elected from outside the General Board shall, by the fact of his election, become a member of the Board.

(*c*) The first President shall be the President of the Reichsbank; his term of office shall be six months. Subsequently, the President, who must be of German nationality, shall be appointed by a majority vote of not less than nine (9) members of the General Board, of which majority at least six (6) votes shall be the votes of German members; this appointment shall be countersigned by the President of the Reich.

(*d*) The President shall direct the Managing Board and shall take the chair at its meetings. In case of a tie vote, he shall have the casting vote. He shall appoint the officials of the Bank on the recommendation of the Managing Board. He shall organize the distribution of their work and duties in the Bank, and shall exercise disciplinary powers over the officials and employees, these powers being provided for in a special clause of the Statutes to be approved by the General Board.

VI. Managing Board

(*a*) The administration of the Bank shall be intrusted to a Managing Board which shall be the administrative and executive body. This Board shall be under the chairmanship of the President. It shall adopt its decisions by majority vote and in conformity with the regulations laid down in the Statutes and by law. In particular it shall direct the currency, discount, and credit policy of the Bank. It shall fix the rates of interest and shall draft all regulations concerning the policy of the Bank.

(*b*) The members of the Managing Board shall be appointed by the President for a period to be fixed by the Organization Committee, subject to the approval of the General Board, whose decision in this connection shall be adopted by a majority of nine (9) votes, at least six (6) of which shall be given by the German members; these appointments shall be countersigned by the President of the Reich.

(*c*) The members of the Managing Board shall occupy no other remunerated post, neither shall they accept any honorary post without the previous consent of the General Board.

(*d*) The salaries and pensions of the members of the Managing Board and of the President shall be fixed by the General Board, the salaries and pensions of the senior staff of the Bank shall be fixed by the Managing Board with the approval of the President, and in case of the junior staff, by the Managing Board alone.

(*e*) The Managing Board may, if they think fit, obtain the assistance of a consultative body composed of German members chosen from agriculture, commerce and industry.

VII. General Board

(*a*) There shall be created a General Board, consisting of fourteen (14) members hereinafter called "the Members of the General Board". One-half (½) of these members shall be of foreign and the other half (½) of German nationality.

(*b*) Each member of the General Board shall be chosen for a period of three (3) years, except in the case of the first election or appointment. In the case of the first term of office, three (3) German members and three (3) foreign members shall serve for a term of one (1) year; two (2) German members and two (2) foreign members shall serve for a term of two (2) years, and two (2) German members and two (2) foreign members shall serve for a term of three (3) years. At the first meeting of the General Board chosen, the members shall decide, by lot, the term for which each shall serve, namely, one, two, or three years.

(*c*) Subject to the provisions of paragraph (*b*) of this section, and to the provisions of this plan that apply to all members of the General Board, members of German nationality shall be chosen in such a manner and under such conditions as the stockholders of German nationality shall decide, in accordance with German law. The manner and conditions so decided upon shall be incorporated in the statutes. The manner of selecting the first group of German members shall be determined by the Organization Committee as provided for in Section III of this plan. No plan shall be adopted for the first selection of German members that does not meet with the approval of the President of the Reichsbank.

(*d*) The foreign members of the first General Board shall be appointed by the Organization Committee. They shall be chosen with due regard to their professional qualifications and financial experience. In making the appointments, the Organization Committee may consult the principal foreign banks of issue and/or any other authorities in financial matters whose advice it may desire.

(*e*) In case of vacancy in a position of a foreign member of the General Board, arising from death, resignation or other cause, there shall be a new election of another person of the same nationality to fill the vacant place. This election shall be by the foreign members of the Board who are in active membership at the time this election is held. Unanimity less one vote shall be necessary for an election. The new member shall always be chosen from among the nationals of the country of the member whose vacancy he is to fill. Before electing any foreign members of the Board, the Board shall consult, with reference to said election, the Central Bank of Issue of the country whose national is to be chosen and/or any other financial authorities of that country whom it may desire to consult.

(*f*) The foreign members shall be chosen, one from each of the following

nationalities, British, French, Italian, Belgian, American, Dutch and Swiss.

(*g*) On the unanimous vote of the General Board, the number of German members may be increased.

(*h*) No Government official, or other person receiving compensation from the German Government or from any foreign Government, shall become a member of the General Board.

(*i*) Except as otherwise provided for by the Bank's statutes, decisions of the Board shall be by a majority vote of the ten (10) members, or by a simple majority vote if the President and the Commissioner are included in the majority. Should a member not be able to attend a meeting of the Board, it will always be open to him to empower one of his colleagues, by registered letter or by telegram, to vote for him and on his behalf.

(*j*) At each of its meetings, and at least once every month, the General Board shall examine the reports submitted to it by the President and the Commissioner. It shall adopt decisions on all the proposals made to it by the President and the Commissioner, provided that these decisions do not encroach upon the rights reserved to the President and the Managing Board as specified in Sections V and VI above.

(*k*) The metal reserve of the Bank and the office for the printing of the notes shall be in Germany, but the General Board may, by a three-quarters, (¾) majority vote, decide that either or both be transferred abroad to a neutral country.

VIII. The Commissioner

(*a*) The Commissioner, who shall be a foreigner, shall be elected by a majority vote of not less than nine (9) members of the General Board, of which majority at least six (6) votes shall be those of foreign members. The Commissioner's term of office shall be fixed by the Organization Committee.

(*b*) The Commissioner may be elected from among the members of the Board of foreign nationality, or may be chosen from outside the Board, from citizens of any one of the foreign countries represented on the Board. The election by the Board of a non-member to the position of Commissioner shall operate to vacate, automatically, the position of the citizen of the country of which the Commissioner is a citizen. A Commissioner elected from outside the Board shall, by the fact of his election, become a member of the Board.

(*c*) If, at the first election, the person chosen as Commissioner should be a member whose term, as decided by lot, in accordance with paragraph (*b*) of Section VII of this scheme, should only be one year, the term of this member shall automatically be increased to two (2) years. In this case, one of the two foreign members who have been assigned to two (2)

years' term, shall have his term reduced to one (1) year. The decision as to which of the two foreign members shall have his term thus reduced from two (2) years to one (1) shall be made by lot.

(*d*) It shall be an essential duty of the Commissioner to enforce the provisions of the law and the statutory regulations relative to the issue of notes and the maintenance of the Bank's reserves which guarantee that issue. To this effect, the Commissioner shall have the right to have furnished to him all statistics and documents which he may deem useful for the accomplishment of his task, and, whenever it appears to him necessary, he may make any investigations either in person or through his assistants. He shall be entitled to be present at the meetings of the Managing Board in Berlin.

(*e*) The office intrusted with the custody of the reserve of notes shall only deliver notes when authorized by the Commissioner so to do.

(*f*) The Commissioner shall be bound to the greatest secrecy in regard to all information he may obtain on the commercial operations of the Bank.

IX. Loans, Discounts and Investments

(*a*) The Bank shall make no loans or discounts having a maturity, at the time the advance is made, in excess of three (3) months.

(*b*) The Bank shall discount no notes or bills bearing less than three (3) names of known solvency, except that for one name there may be substituted collateral in the form of warrants relating to *bona fide* commercial transactions or to goods. Such definition shall not be taken as including any notes issued or bills drawn in financial transactions or secured by stocks, bonds or other investment securities but may include Treasury Bills of the German Government.

(*c*) The Bank may, with the special authorization of the General Board voting in the conditions laid down in paragraph (*i*) of Section VII, accept the long term bonds of the Reich as collateral for loans with maturities not exceeding three (3) months, if the loans bear two (2) responsible names, in addition to the collateral, one of these names being the name of a commercial bank doing business in Germany. Provided: that loans collaterally secured by the long term securities of the Reich shall never exceed the amount of the Bank's net paid-in capital and surplus, except by the unanimous vote of all the members of the General Board save one.

(*d*) The Bank shall make no loans nor advances on the security of real estate, mining property, oil property or stock shares; nor on the security of Government obligations, except as otherwise provided for in this plan. The Bank may, however, take mortgages or titles to such property, stock shares and Government debt bonds as additional security for loans previously made in good faith in accordance with provisions herein made.

(*e*) Subject to the provisions contained in Article (*a*), the Bank shall make no loans, discounts, or other advances directly or indirectly, to the German Reich, any German State, Communes or other German Governmental units, or to any foreign Government or Governmental units, nor shall it invest its funds in the bonds, debentures or other debt of any such Governmental unit, except as otherwise specifically authorized by its constitutive law. The deposit accounts and current accounts in the Bank of the German Reich, the German States, the German Communes or other German Governmental units, shall never show a debit balance.

(*f*) The Bank shall not accept time bills of exchange drawn against it.

(*g*) The Bank may not buy or sell merchandise, produce, real estate or stock shares of other corporations for its own account.

(*h*) The restrictions contained in the preceding paragraph shall not operate to prevent the Bank from buying such real estate, equipment and supplies as it needs for its own banking business, or from selling such property as may come into its possession in connection with the guarantee of statutory loans. Moreover, the Bank shall not be prevented, by the above restrictions, from buying in property where it needs to do so, in order to protect itself in the collection of statutory loans previously made in good faith and not paid at maturity.

X. Service of the Reich's Treasury

(*a*) The Managing Board is authorized to make advances from time to time to the Reich, but the amount outstanding at any one time shall never exceed 100 million marks. Such advances shall, in no case, be for a longer period than three months and in no case shall the Reich be indebted to the Bank at the end of the Bank's financial year, which shall coincide with that of the Reich. In consideration of these facilities, the Reich and its Treasury shall conduct all their domestic and foreign banking business through the medium of the Bank.

(*b*) The Managing Board shall also be empowered to grant advances to the Post Office and the Railways for reasonable amounts on condition that these organizations shall intrust the Bank, except in so far as the Bank might modify this condition, with the whole of their Treasury Service; but the total amount of loans outstanding to the Post Office and the Railways together shall never exceed 200 million gold marks.

XI. Service of the Reparation Treasury

The Bank will receive on deposit, sums paid for reparations, it being understood that the relationship between it and the Committee intrusted with Reparation receipts shall be solely those of banker and customer.

This Treasury Service will proceed in conformity with the provisions of Annex [I] to the General Report. The maximum amount to be held on deposit for reparation account shall at no time exceed two (2) milliards of marks in conformity with Section X (*a*) of this Annex, except as otherwise provided therein.

XII. Bank Notes

(*a*) The Bank shall have the exclusive right of issuing and circulating bank-notes in Germany during the period of its charter.

(*b*) The German Government may not itself issue any kind of paper money for circulation in Germany, during the period of the Bank's charter, nor shall it permit any German State, Commune, City, other governmental unit, corporation or private individual, to issue or circulate paper money in Germany during the period of the Bank's charter, with the exception of the Banks of Baden, Bavaria, Saxony and Würtemberg, which shall retain their charter of issue for sums not to exceed their present legal quota. The notes of the Rentenbank shall be gradually withdrawn from circulation under the condition prescribed in Section XV and the Appendix hereto.

(*c*) During the period of the Bank's charter, the Reich shall not issue any coins for circulation in Germany (except gold coins, containing approximately their full value in gold metal) of a larger denomination than five (5) marks; and shall not issue coins of five (5) marks or less, in excess of twenty (20) marks per capita of her population. All coins, other than gold coins, issued by the Government, shall be issued through the Bank. They shall be received by the Government in unlimited quantity at their nominal value, in payment of all taxes and other Government dues.

(*d*) The bank may issue notes for circulation, against gold coin or bullion, statutory discounts as defined in Section IX, demand credits in foreign banks and foreign commercial trade bills, with maturities of three (3) months or less, taken at their present gold values at current rate of exchange.

(*e*) The notes of the Bank, as well as metallic currency, shall be receivable in unlimited quantities for all taxes and other government dues in Germany. The notes shall be unlimited legal tender, unless otherwise specifically provided by contract, for all debts, public and private.

(*f*) The notes of the Bank shall be accepted at their nominal value for all payments made to the Bank, both at the head office of the Bank in Berlin, and at all branches of the Bank located in Germany.

(*g*) Notes shall be payable to bearer at the head office of the Bank in Berlin on presentation. The notes shall also be payable on presentation at the other offices and branches of the Bank, to the extent permitted

by their cash reserves and monetary requirements. Payments may be made in any of the following forms, at the option of the Bank:

(1) German gold coins of the present legal standard of weight and fineness, at par;

(2) gold bars, in denominations of not less than one (1) thousand gold marks, and not more than thirty-five (35) thousand gold marks, at their pure gold equivalent in German gold coin of the present legal standard of weight and fineness;

(3) demand drafts, payable in gold or in foreign currencies at current market gold values, and drawn on funds located abroad in solvent banks to be specified by the Bank's statutes provided that the premia above the gold pars (or gold values, in the case of currencies not on a gold basis) charged by the Bank for such drafts shall never exceed the amount necessary to cover shipping expenses, including interest for the time of transit, on gold bars shipped in substantial quantities from Berlin to the foreign financial center on which the draft is drawn.

The Committee is of opinion, however, that, at the inception of the Bank, conditions will be unfavorable for the application of the above rule of convertibility; in this event, this rule may therefore be temporarily modified by the affirmative vote of every member but one of each of the following groups:

(1) The Organization Committee.
(2) The Managing Board.
(3) The General Board.

In case of such modification, the Bank shall make all possible efforts and use all the means at its disposal in order to maintain the rate of exchange of the mark at as near gold parity as possible. Furthermore, in case of modification of the above-mentioned rule of convertibility of notes, a return to convertibility will be permanently established as soon as possible, by a simple majority vote of the General Board, and of the Managing Board.

(*h*) While the Bank shall not make reimbursement for notes that have been lost or completely destroyed, it shall replace worn or torn notes, on application, by notes in good condition, at their nominal value; provided that such replacement shall not be required in the case of any note unless the part of the note presented shall constitute more than one-half of the note.

(*i*) The notes of the Bank shall bear the facsimile signature of the President and the seal of the Commissioner.

XIII. Reserves

(*a*) The Bank shall always carry a normal reserve of at least thirty-three and one-third (33⅓) per cent. of the total amount of its notes outstanding, subject to the following qualification:

In exceptional circumstances, the reserve against notes may be reduced below thirty-three and one-third (33⅓) per cent. on the proposal of the Managing Board, by a decision of the General Board; but said decision of the General Board shall require the affirmative vote of every member of the Board save one. In case of such a reduction in the reserve, the Bank shall incur the following penalties, the proceeds of which it shall pay to the Reich: whenever the reserve against notes shall be less than thirty-three and one-third (33⅓) per cent. of the notes outstanding and shall so continue for more than one week the Bank shall pay the following deficiency tax upon the amount by which the said reserve is less than thirty-three and one-third (33⅓) per cent. of the notes outstanding:

> When the reserve is below thirty-three and one-third (33⅓) per cent. and not below thirty (30) per cent., a tax of three (3) per cent. per annum;
>
> When the reserve is below thirty (30) per cent. and not below twenty-seven (27) per cent., a tax of five (5) per cent. per annum;
>
> When the reserve is below twenty-seven (27) per cent. and not below twenty-five (25) per cent., a tax of eight (8) per cent. per annum;
>
> When the reserve is below twenty-five (25) per cent., a tax of eight (8) per cent. per annum, plus one (1) per cent. per annum for each one (1) per cent. the tax figure is below twenty-five (25) per cent.

(*b*) No discount rate or rediscount rate shall be below five (5) per cent. per annum when the reserve mentioned in the preceding paragraph shall have continuously, for one week or more, been below thirty-three and one-third (33⅓) per cent. of the bank note liabilities there mentioned.

(*c*) Whenever a deficiency tax is payable, a percentage equal to at least one-third (⅓) of the percentage rates of the tax payable shall be added to the Bank's discount rate and rediscount rate, in addition to any increase in the said rates required to comply with the provisions of the preceding paragraph.

(*d*) The above-mentioned legal reserve may be kept in gold bars or gold coin, at any office of the Bank, and/or in the form of demand deposits, made payable in gold or its equivalent, at the rates at which the deposits were made, in banks of high standing located in foreign financial centers.

(*e*) The Bank shall also hold a special reserve of gold and gold deposits,

of the same character required to be held against its notes in circulation, to the amount of twelve (12) per cent. of its deposit liabilities. Whenever the above reserve is continuously, for one week or more, below said twelve (12) per cent., the Bank shall pay a deficiency tax of four (4) per cent. per annum on the amount by which the reserve is less than twelve (12) per cent. and not less than ten (10) per cent.; a tax of eight (8) per cent. per annum on the amount by which it is less than ten (10) per cent. and not less than eight (8) per cent.; and a tax of ten (10) per cent. per annum in addition to the said eight (8) per cent. for each one (1) per cent. by which the percentage figure is below eight (8) per cent.

(*f*) In order to assure adequate liquidity in the assets securing the Bank's deposit liabilities, the Bank shall at all times hold in addition to its aforementioned gold reserve of twelve (12) per cent. demand deposits in Germany and abroad, cheques on other banks, and statutory notes and bills of a commercial character, payable at call or on time with maturities of less than thirty (30) days to the amount of not less than thirty (30) per cent. of the Bank's total deposit liabilities.

(*g*) The above-mentioned reserves and the liquid assets above described shall be segregated for the service of the Bank's deposits.

XIV. Profits

The net profits of the Bank, at the end of each financial period, shall be employed as follows:

(*a*) Twenty (20) per cent. shall be transferred to surplus or reserve until the Bank's actual net paid-up capital and surplus shall amount to twelve (12) per cent. of its average liabilities on circulating notes, on the fifteenth day of the six preceding months. If the ratio shall again fall below this twelve (12) per cent., the above-mentioned allotment of twenty (20) per cent. of the net profits to surplus or reserve shall continue. When and so long as the ratio of the Bank's net capital and surplus or reserve to its average liabilities on circulating notes, as above computed, shall exceed twelve (12) per cent., the Bank may use its discretion as to the percentage of its net profits it will transfer to surplus or reserve provided that the percentage thus transferred shall never exceed twenty (20) per cent.

(*b*) A sum shall be assigned to the payment of dividends sufficient to pay eight (8) per cent. per annum on the Bank's shares.

(*c*) The balance of the net profits shall be divided as follows:

(1) One-half (½) to the shareholders, in dividends, or to a special fund to be used for the maintenance of a uniform dividend policy.

(2) One-half (½) to the Government, as a franchise tax for the Bank's exclusive privilege of issuing circulating bank-notes.

(*d*) The dividends of the Bank, and other income derived from its capital shares owned by foreigners residing abroad, shall be exempt from all German income taxes, present and future; provided that this exemption shall not apply to general taxes imposed in Germany upon the real property of the Banks in general. The Bank, however, in consideration of the percentage of profits accruing to the Government under paragraph (*c*) (2), shall not be subject to any corporation tax or business tax levied in Germany by the Reich, the States or any other governmental unit.

(*e*) Such privileges not inconsistent with this plan, now enjoyed by the Reichsbank, as may be specified by the Organization Committee as desirable and advantageous to the new Bank shall be given to it.

XV. Liquidation of the Rentenbank

The rentenmarks shall gradually be withdrawn from circulation by the Bank in accordance with the provisions contained in the Appendix attached.

XVI. Dollar-Schatzanweisungen

(*Treasury Bills in Dollars*)

(*a*) The German Government shall abandon all its rights to the proceeds from the liquidation of the Reichsbank (unless the present plan is put into execution by means of the transformation of the Reichsbank), in return for which the latter will give the Government an undertaking to assume responsibility for the repayment of the said bills not in excess of 210 million gold marks, under conditions to be settled by the Reichsbank with the holders of these bills.

(*b*) At the same time, in order to guarantee the good faith of this operation, that is to say, in order to guarantee the Reichsbank against any loss resulting from this operation, the German Government shall hand over to the Reichsbank gold bills for an amount equal to and falling due at the same date as the dollar bills in circulation. As soon as the liquidation of these dollar bills has been completed, the Reichsbank will return to the German Government the portion (if any) of the bills which it has received, and which has not been employed in ensuring the liquidation.

XVII. The Reichsbank

(*a*) If the present plan is put into execution by means of the transformation of the Reichsbank, the latter shall redeem the outstanding circulating notes in its new notes, at the rate of one trillion (1,000,000,000,000) marks to one (1) gold mark. The old notes shall be immediately withdrawn from circulation and cancelled.

(*b*) The Reichsbank, in case it is continued, shall meet the same reserve

requirements against the outstanding notes which it undertakes to exchange, in accordance with the provisions of paragraph *a* of this section, as are required to be held against bank notes outstanding by Section XIII of this plan.

(*c*) If the Reichsbank is to be liquidated, this operation will be carried out by the new Bank which would be then set up, and which would have to assume responsibility for, or itself carry out, the exchanges provided for in paragraphs *a* and *b* above.

XVIII. Penalties

A penalty in the form of fine or imprisonment or both shall be provided for the punishment of any person or persons willfully giving incorrect information, directly or indirectly, to the President, the General Board, the Commissioner or his assistants.

XIX. Measures to be Taken by the German Government for the Execution of the Plan

All the undertakings which the German Government will have to enter into in connection with the Bank, for the execution of this plan, including the assignment for the withdrawal of the rentenmark, of funds to be received from the Rentenbank's mortgages, shall be embodied in a special contract between the Bank and the German Government. This contract, as well as the Statutes of the Bank, shall be duly approved by the German Parliament.

APPENDIX TO ANNEX NO. 1

THE LIQUIDATION OF THE RENTENBANK

(*Appendix provided for in Section XV of the Plan for the Bank*)

The Deutsche Rentenbank was founded, and its operation regulated, by the Decree of October 15, 1923.

The capital and the initial reserve were fixed by this Decree at 3,200 million rentenmarks, to be furnished half by agriculture and half by industry and commerce, including the banks.

The Rentenbank holds a general mortgage, expressed in gold marks, on industrial, agricultural and commercial property, amounting to 4 per cent. of the value of this property as assessed for the Wehrbeitraggesetz.[1]

[1] The amount of this mortgage already amounts to 3,700 million gold marks.

These mortgages bear 6 per cent. interest for the benefit of the Rentenbank.

The Rentenbank is authorized to issue bank notes expressed in rentenmarks up to the amount of the capital and initial reserve (3,200 million gold marks).

The Rentenbank must open credit to the Reich during the two years following its foundation, up to the amount of 1,200 million rentenmarks, of which 900 millions will bear 6 per cent. interest and 300 millions will bear no interest. The Rentenbank is authorized moreover to open credits to the Reichsbank and to the private Banks up to 1,200 million rentenmarks, in order to finance private economy.

Up to the present the Rentenbank has placed in circulation:

(1) 700 millions which have been delivered to the Reichsbank in order to provide for the credits to be granted by the latter to German manufacturers and merchants. This sum is therefore guaranteed by drafts or credits redeemable in rentenmarks. If and when the Rentenbank is liquidated, no attention need be paid to them.

(2) 1,100 million rentenmarks which have been advanced to the Reich without any security but the signature of the latter, 900 millions of which bear 6 per cent. interest per annum and 200 millions bear no interest.

In so far as concerns this latter sum of 1,100 millions the new Bank (or the Reichsbank, if it is maintained) would assume the obligation *vis-à-vis* the holders of these notes to redeem them gradually within ten years. To this effect the Rentenbank would undertake to remit to the Bank, as fast as they came in, all sums received from its debtors whether from the property holders affected by the Rentenbank mortgage or from the State, up to the sum of 1,100 millions.

This undertaking of the Rentenbank *vis-à-vis* the Bank would be covered by all the mortgages and guarantees which it holds, as well as by the guarantee of the German Government itself.

It should moreover be understood that all profits accruing to the Reich in virtue of its participation in the Bank would be assigned by priority to the amortization of its debt of 1,100 millions.

As soon as the payments by the Rentenbank or by the Reich itself, as stated above, reach the figure of 1,100 millions the German Government and the Rentenbank will be released from all liability *vis-à-vis* the Bank.

ANNEX NO. 2 TO THE REPORT OF THE FIRST COMMITTEE OF EXPERTS

SUGGESTED INDEX OF PROSPERITY

Basis of Comparison

1. In addition to the standard contribution referred to in paragraph VIII (*c*), there shall be paid for 1929–30 and following years a supplementary sum according to the growth in prosperity of Germany. This increase in prosperity for any year shall be measured by the extent to which the index, as defined below, on the statistics of the completed preceding year, exceeds the average statistics of the base years.

Components of the Index

2. For the purpose of computing the index, the following statistics shall be employed:

(*a*) the total of German exports and imports taken together;
(*b*) the total of budget receipts and expenditure taken together, including those of the States of Prussia, Saxony and Bavaria (after deducting from both sides the amount of the Peace Treaty payments included in the year);
(*c*) railroad traffic as measured by the statistics of the weight carried;
(*d*) the total money value of the consumption of sugar, tobacco, beer and alcohol, within Germany (measured by the prices actually paid by the consumer);
(*e*) total population of Germany (computed from the last available census data, vital statistics and emigration records);
(*f*) the consumption of coal (and ignite reduced to coal equivalent) per capita.

The Index Base

3. In computing the *base*, the average statistics for the *three* years 1927, 1928 and 1929 shall be taken for (*b*) budget receipts and expenditure, for (*e*) population and for (*f*) coal consumption per capita, and for the *six* years 1912 and 1913, 1926, 1927, 1928 and 1929 for the other categories (after appropriate adjustments for the differences in population and the altered gold values to make the three earlier years comparable with the three later years in this respect). The percentage change for each of these six groups, compared with the base, shall be separately computed and an arithmetical average of the six percentage results taken as the index.

Payment to which the Index is Applied

4. The index percentage shall be applied to the amount of the standard payment, *viz.*, 2,500 millions, to give the supplement for the year, except that for the five years 1929–30 to 1933–34 it shall apply to 1,250 millions, or one-half of the standard payment only.

Minute Adjustments Ignored

5. The supplementary payment is to be reckoned only for each completed half per cent. of the index, *i.e.*, an index average of 11.35 per cent. would be reckoned as 11 per cent.

Computation of Supplement

6. For the year 1929–30, the computation of the supplement shall be made after the end of that year by comparing the statistics of 1929 itself with the index base.

Deficiencies

7. In the event of the index in any year producing, as the supplement, a minus quantity, the basis payment should continue to be made, but subsequent supplementary payments shall not accrue due until allowance has been made therefrom for such deficiency or "minus" payment of previous years.

Difficulties in Application

8. Any disputed points upon the application of the statistics of this index shall be referred to the Finance Section of the League of Nations for arbitration.

Changes in the Value of Gold

9. The German Government and the Reparation Commission should each have the right in any future year, in case of a claim that the general purchasing power of gold as compared with 1928 has altered by not less than 10 per cent., to ask for a revision on the sole and single ground of such altered gold value. The alteration to be made may apply both to the standard contribution and the supplementary payment. Failing mutual agreement, a decision should be given by an arbitral committee appointed by the League of Nations. After decision, the altered basis should stand for each succeeding year until a claim be made by either party that there has again been a change, since the year to which the alteration applied, of not less than 10 per cent.

The alterations under this paragraph should be made by reference to such generally approved index numbers of prices (German or non-German), singly or in combination as the arbitration may decide.

ANNEX NO. 3 TO THE REPORT OF THE FIRST COMMITTEE OF EXPERTS

Note by the First Committee of Experts

Of the assets and revenues of the German Reich and its constituent States subject to the application of Article 248 of the Peace Treaty, the German railway system is undeniably the most important and also that which can be the most easily utilized for the purpose of reparation.

The German railway system comprises about 53,000 kilometers of lines, and the rolling-stock will very shortly amount to:

Locomotive engines (excluding electric and motor engines)	30,850
Passenger vehicles	69,253
Wagons	748,753

A considerable portion of this rolling stock is of recent construction. Two-thirds of the whole (18,000 locomotives and 500,000 passenger vehicles and wagons) were brought into service in the last ten years. The rolling-stock at present possessed by the German railway system is very superior both in quality and quantity to that which was in use before the war.

Speaking generally, it may be said that the equipment of the German railways is modern and fully up to the level of the latest improvements in railway technique.

The capital cost of the system amounts to not less than 26 milliard gold marks.

The Experts called in the services of eminent railway specialists, and requested them to make a study of the German railways; their report is attached.

GENERAL REPORT ON THE GERMAN RAILWAYS MADE TO THE FIRST EXPERT COMMITTEE BY SIR WILLIAM ACWORTH AND M. LEVERVE

26th March, 1924.

In our earlier Reports we described the situation of the German railways and replied to various questions asked by the Committee, especially as to the amount of net revenue which we considered they could yield for reparation purposes. We have now, as requested by the Committee, brought together in a single document the essential portions of these reports together with our own conclusions.

We desire to thank the German Minister of Railways and his staff for the manner in which they have assisted our inquiry in Berlin with information both verbal and documentary. In the short time at our

disposal it has naturally not been possible for us to push our investigations very far, but we trust that the Report which we now present is adequate for the purposes of the Committee, and we think its substantial accuracy may be relied on.

Capital Invested in the German Railways

In a preliminary report we stated that the capital value of the German railways might safely be taken at not less than 20 milliard gold marks. An official publication shows that the debt of the several States specifically entered as railway debt, less that portion of it applicable to the ceded territories, amounted in 1914 to 17.93 milliard gold marks. In March, 1920, at which date the railways were transferred from the ownership of the several States to that of the German Reich, the invested capital was reckoned as 25–28 milliard gold marks. This large increase is explained by the fact that at the date of the transfer:

(*a*) the value of the railways of the separate States was written up to conform to the real amount of capital that had been invested in them, much of which had never been or had ceased to be represented by railway debt;

(*b*) there was added to the old capital the value of the additions made during the war.

Between March, 1920, and March, 1923, the capital invested was further increased to 25.86 milliard gold marks. The expenditure for the current year and that which will still need to be incurred in payment for commitments already entered into will put the final figure well over 26 milliard gold marks.

The above figures represent capital invested, which is sometimes a very different thing from capital value. But in this case the capital value of the German railway system which comprises 53,000 kilometers at 500,000 gold marks per kilometer may be taken to be fully equal to the capital invested. Now a large part of the system is double-tracked; the lines, stations, yards and buildings have been constructed to a high standard, and they are very amply equipped with up-to-date rolling stock. A comparison with the capital cost per kilometer of the railways of other important countries, taking account of all the factors on both sides, gives good grounds for saying that the German figure of investment is by no means an excessive representation of actual cost.

Net Revenue Attainable

We think that a net annual revenue of 1 milliard gold marks per annum can reasonably be expected from the German railways. This is very slightly more than the net revenue earned before the war; but it was

then earned very easily. No attempt was made to maximize net revenue, which was much more than sufficient to meet the interest on the railway debt.

On the one hand, the tariffs were kept low, especially for passengers. The guiding principle was, as has been recently expressed in a brochure published by Dr. Sarter, whose statement, as he is a highly placed official in the Transport Ministry, may be taken as authoritative: "The State Railways ought primarily to have regard to the progressive development of the economic life of the country and to treat the attainment of net revenue as only of secondary importance".

On the other hand, the operating expenses were unduly high; the staff was unnecessarily large; and magnificent stations and enormous shunting yards were worked at great expense. Moreover, as is shown by the figures which we have given above, the working expenses included year by year large sums for improvements and additions which might properly have been charged to capital.

It may be thought—seeing that for some years past the gross receipts of the German railways have not covered their expenses, and that recently the expenditure was several times as great as the receipts, while even now the earnings are only equal to the expenditure—that this estimate of ours is unduly sanguine.

But it is to be remembered that since the war almost every country has gone through a similar experience. Even in the United States, where there was no currency depreciation, the net income of the railways in 1920 was almost negligible; whereas in England, where currency depreciation is quite small, the receipts in 1921 fell short of the expenses. But in both countries the situation has now completely changed, and if in other countries the railways have still not regained financial equilibrium, experience sufficiently shows that this phase is only temporary. And Germany has one special circumstance of the first importance in her favor. On the railways of England and America, the wages of the railway staff are roughly double what they were before the war. No such advance has taken place in Germany. On the contrary, the average wage is at present, we are informed, only 75 per cent. of the pre-war wage. It is proposed in the current year to increase this percentage to 93 per cent. of the pre-war average. But there is no prospect of any such increase above the pre-war standard as has taken place in the two countries mentioned. And this for two reasons: the cost of living has not increased in Germany, as it has there, and, as German wages in other occupations have not risen, railway wages do not compare unfavorably.

Naturally we do not suggest that a milliard of net revenue is attainable at the outset. But we think a substantial sum can be obtained very

shortly, and that the full amount should be reached within a period of three years. It should be arrived at in the manner following:

During the war there was imposed in Germany, as in other countries, a transport tax. This tax still continues to be levied. It is included in the rates charged to the public but is paid over by the railways direct to the Finance Ministry and forms therefore no portion of the railway revenue. It is a tax on the gross receipts, and is fixed at 7 per cent. on all receipts from freight traffic other than coal, and at 10 per cent. to 16 per cent., according to class, on passenger traffic. On the average it amounts to 6 per cent. of the total gross receipts. It is estimated to produce in the year 1924, 227 million gold marks. If in future years the traffic increases, or if the same volume of traffic is charged at a higher rate, naturally the proceeds of the tax will increase proportionately. It seems safe to assume that its yield will not fall below the present figure. Moreover, as it is levied on the gross and not on the net income, it is independent of any variations in the cost of operation. If, as we recommend, the German railways in future are required to pay over the proceeds of this tax to the Reparation Commission, the Commission will have from the outset a safe and important source of revenue at their disposal.

There remains a sum of 800 million gold marks in round figures to be obtained, and it can, in our judgment, be obtained as net profit on the railways, on condition that the tariffs are fixed at a reasonable level, that the number of employees is reduced to a reasonable figure, and that in all other matters curtailment of expenses is secured by economical operation on business lines.

Before the war the German railways spent 70 marks for every 100 marks which they earned. In technical railway language the "operating ratio" was 70 per cent. This was an unusually high ratio, especially having regard to the fact that the railways paid no taxes. It was a good deal higher than the English ratio, much higher than the ratio in France. But in every country there has been, since the war, a marked increase in the ratio, and we do not think that under postwar conditions the German railways can be expected to operate at a ratio so low as 70 per cent. Not only have they now to bear the transport tax, but, though a great rise in wages—the main cause of the rise of the operating ratio in other countries—is not to be expected in Germany, the increased cost of materials, coal and steel particularly, seems likely to be permanent. We think however that an operating ratio of 80 per cent. ought to be attainable. We base this opinion in the first place on our investigation of German conditions, and especially on two facts:

(1) that new rolling stock has been acquired in the last few years in such large measure that the need of repairs and renewals will be exceptionally small for some years to come, and

(2) that the recent very large expenditure on fitting the freight wagons with continuous brakes should result in important operating economies.

In the second place, we think our knowledge of what has happened and is happening in other comparable countries justifies us in asserting in broad terms that, given efficient and economical management, there is no apparent reason why the operating ratio should not be brought back in a short time to 80 per cent. in Germany as it has already been brought back elsewhere.

In England and America, as we have said, the wages of the staff have doubled, but the tariffs are only roughly 50 per cent. above the pre-war tariffs. In the result, the operating ratio has become much higher than before and stands at present at about 80 per cent. But the remaining 20 per cent., calculated on a greatly increased gross revenue, suffices to give a return of over 4 per cent. on the railway capital.

Now in Germany a gross revenue of 4,000 million gold marks per annum is in sight at the present moment. With a gross revenue of 4,000 million gold marks per annum and an operating ratio of 80 per cent., the net revenue would be 800 million gold marks. And this sum added to the 227 million gold marks of the transport tax yields a total of over 1 milliard gold marks.

And the whole of this sum can be made available for Reparation. The fall of the mark has wiped out the pre-war railway debt; the plan before the Committee will, we understand, relieve the railways under the new management of responsibility for the debts recently incurred; and capital has been so lavishly spent in the last few years that there can be no justification for further expenditure for some years to come. In future years we assume that, under commercial management, new capital will not be spent, unless with the assurance that the resulting profits or economies will at least suffice to meet the interest.

We shall revert to the matter of receipts and expenditure when we come to discuss the budget estimate for the year commencing April, 1924.

Meanwhile it may be useful to approach the subject from another point of view.

One milliard is less than 4 per cent. on the railway capital of 26 milliards. If we deduct the transport tax, which certainly does not exceed in amount the taxation levied on railways in other countries, the German railways are only required to earn a fraction over 3 per cent. on their capital. And as already stated, we have no reason to think that the German railways are overcapitalized. Three per cent. can hardly be regarded as an excessive rate of interest.

In England the Rates Tribunal is required by Statute to permit the railways, provided that their management is efficient and economical,

to charge rates adequate to produce a net income of roundly 1 milliard gold marks on a capital somewhat less than that of the German railways. In America, the Interstate Commerce Commission, also acting under statutory authority, has decided that 5¾ per cent. is a reasonable return on railway capital, and has authorized rates regarded as sufficient to produce this return.

If the German railways are required to pay very little more than 3 per cent. for reparations, they ought, under efficient and economical commercial management, to earn a substantial surplus over and above, which can be applied in relief of the general taxation of the country. At the same time, it should be understood that the profits on railways, like those of other commercial undertakings, vary from year to year. There are good times and bad times. The milliard which we have assumed as a reasonable return must be regarded as an average one year with another.

As we have already said the full net revenue will not be attained from the outset. A period of some years will probably need to elapse. For the German traffic has been seriously affected by the occupation of the Rhine-Ruhr railways.

Time will be needed after the railways have been reorganized as a united system to bring the new system into work and to re-establish completely the old traffic. And this reorganization will mean expenditure. Further, the necessary reform of the management will take time to carry out and will not produce its full effect at once.

For all these reasons and naturally without committing ourselves to mathematical accuracy we think it reasonable to estimate that the net revenue apart from the transport tax, and after providing for building up of an adequate reserve, will increase as follows:

	Million gold marks
1st year	400
2d year	550
3d and 4th years	700 to 750
5th and subsequent years	800

Measures to Obtain Results

It is evident in the first place, that the railways in common with every other German undertaking, can only give satisfactory results if the currency is stabilized and political and social tranquillity prevails.

As for the measures to be taken to obtain the results indicated above, we may repeat: the railways must be worked as a commercial enterprise, that is to say, with the determination on the one hand so to fix the rates as to produce all the receipts that can be obtained, and on the

other hand to reduce the expenditure to a minimum. The management of the German railways has hitherto been far from working to this standard. We shall show later that since the war the tariffs both for passenger and freight have been kept too low, with the object of encouraging industry and commerce, and especially of favoring German export. The tariffs are still regarded as they were before the war, primarily as a weapon in the hands of German trade, and only secondarily as a source of railway revenue.

On the other hand, the expenditure on rolling stock and works of every kind has been extravagant since the war, and the staff employed is at the same time much too large and badly paid.

It is therefore indispensable to make a radical change in the policy followed by the railways hitherto. But we do not believe that any German management will have the strength necessary to fight successfully against the traditional mental attitude, unless there is behind it the constant pressure of an expert control, established and maintained in the interests of the Allies, to supervise the management in the matter both of tariffs and of expenditure.

We shall deal later with the question of the Control in greater detail.

Further, we regard a complete change in the organization as essential. We think that the recent establishment of a separate undertaking, with a separate budget and with a certain measure of independence, though it is a move in the right direction, does not go far enough. The undertaking, though separate, still remains a Government undertaking. In our judgment it is necessary to go further and, while leaving to Germany the ownership of the railways, to intrust the management for a period of years to a commercial company, which will be German, but with a board of directors containing representatives both of the shareholders and of the creditor Allied Powers.

What this period of years should be, how the company should be constituted, with what powers, and with what restrictions, is a matter which we understand the Committee itself will deal with. We need only urge that the Company and its management must have adequate freedom in the matter both of tariffs and operation. And if we may vary the phrase of Dr. Sarter, we think that a commercially managed railway company ought to treat the attainment of an adequate net revenue as of primary importance, while at the same time having regard to the progressive development of the economic life of the country, and being careful not to kill or even impair the productive capacity of the goose that lays the golden eggs.

Moreover, as we have already said, the financial result which we have mentioned can only be attained on condition that the entire German railways are either united in one system under a single management,

or divided in a reasonable manner into several systems working in harmony, with the same tariffs and under the same general regulations. If we had to contemplate separate systems wholly out of harmony with each other, the results obtained would certainly not correspond to our estimate of the net revenue obtainable.

Though that estimate assumes the existence of an undivided German railway system, it will of course be understood that, in making this assumption we do not express any opinion as to the course of action which the Allied Governments may think it desirable to adopt or on the general question of military or economic guarantees for reparation and security.

Finally, our estimate takes for granted that the railways will not be required to carry traffic for the Government or the community, unless their services are paid for at a commercial rate. Hitherto the German railways have carried free for the Post Office not only mails but parcel traffic. The railways of Great Britain receive at the present time from the Post Office payments for similar though smaller services amounting to more than 4 million pounds sterling per annum. There are other instances of a similar kind but of less importance with which it is not necessary to deal here.

Future Capital Expenditure

We shall see later that the expenditure incurred since the war for new works, and especially for rolling stock, has been very large. It has in our judgment gone much beyond the real needs of the railways.

For rolling stock alone there has been charged against the various budgets, a sum of more than 3 milliard gold marks, which has enabled the railways to acquire more than 18,000 new locomotives and more than 400,000 new carriages and wagons.

We think, therefore, that, broadly speaking, the capital account can be entirely closed for some years to come, without any injury to the railways. But at the same time we must not fail to call attention to the statement of the German Government that the capital expenditure to be incurred in the year 1924 will amount to over 500 million gold marks, and that to complete the program a further expenditure of 236 million gold marks will be required in 1925. We think that this program ought to be examined in detail, and very drastically cut down.

Still, after a certain time it will no doubt be necessary to incur new expenditure in enlarging stations or building new lines. But as we have already said, a commercial administration will not embark on new capital expenditure unless it is evident that it will be directly reproductive.

The cost can therefore be paid either directly, out of increased net revenue, or if it is sufficiently important to justify this course, by loans charged on the increased revenue without trenching on the revenue pledged for reparations.

The Railway Budget—Ordinary Budget

It seems desirable to examine the estimate for the ordinary budget for the financial year from April 1, 1924, to March 31, 1925—in German financial matters called the year 1924—which has been drawn up by the German administration.

It has been drawn upon the supposition that the Rhine-Westphalian Railways have been restored to German management. But even if and when this happens, it is probable that there will be confusion at the outset; a certain time must necessarily elapse before the normal working can be resumed and the ordinary currents of traffic restored; and further, certain exceptional expenses will have to be incurred which it is impossible to estimate exactly.

This budget is therefore somewhat theoretical, and may be considered as representing the results to be obtained in the year 1925 rather than in the year 1924. Subject to these reservations, we will proceed to summarize and examine it.

Ordinary Budget Including the Rhine-Westphalian Railways

		Gold Marks
I. Expenses		
(*a*) Salaries and Wages		1,631,007,000
(*b*) Cost of Material:		
Supplies and consumable stores	545,000,000	
Maintenance of way and works	294,480,000	
Maintenance and renewal of rolling stock and mechanical plant	394,000,000	
Other material costs	140,513,000	
Reserves	200,000,000	
Interest and repayment of debt	325,000,000	1,898,993,000
Total		3,530,000,000
II. Receipts		
Passenger traffic		850,000,000
Freight traffic		2,700,000,000
Miscellaneous		130,000,000
Total		3,680,000,000
Surplus		150,000,000

Receipts

The receipts for the budget in 1924 have been calculated by assuming a traffic somewhat greater than that in 1913, but less than that in 1921 and 1922, in which years the traffic was swelled by the activity of trade due to the fall of the mark.

The figures are as follows:

	Actual in 1913 Millions	*Estimate for 1924 Millions*
Passenger kilometers	35,122	40,000
Ton kilometers	57,251	60,000

The passenger receipts have been calculated on the basis of the tariffs which were in force at the time when the budget was framed. Later on when we come to deal with tariffs, we shall point out that the 3d and 4th class fares were too low, and that the 1st class fares, which affect only a trifling number of passengers, were too high. Since March 1st the 3d and 4th class fares have been increased by 36 per cent., and the 1st class fares have been slightly reduced. We may assume that the result will be an increase in passenger receipts of 30 per cent., which will raise the budget estimate of 850 million to roughly 1,100 million marks.

The freight receipts have been calculated on the basis of an average charge of 4.5 gold pfennigs per ton kilometer. The tariffs in force last February, at the time of our visit to Berlin, gave a higher average receipt per ton kilometer of 5.5 gold pfennigs. But a general reduction of 10 per cent. was made on March 1st, and others are in contemplation with the special object of encouraging national trade and industry. As we shall explain later, these reductions do not seem to us justified under present conditions. If rates were maintained at a reasonable level, we may assume that the freight receipts would be about 10 per cent. above the budget estimate of 2,700 million marks, that is, they would amount to 2,970 million marks.

The receipts side of the budget would then be as follows:

	Million gold marks
Passenger traffic	1,100
Freight traffic	2,970
Miscellaneous	130
Total	4,200

Expenses

As for the estimate of expenses for 1924, it is to be noted that the expenditure for staff, 1,631,007,000 gold marks, represents about 54 per cent. of the actual working expenditure of 3,005 million gold marks. If we exclude interest and repayment of debt, and reserve, neither of which are properly included in working expenses, this proportion is much the same as that on the railways of the adjacent countries. We pointed out in previous Notes that the staff was unreasonably large. In 1919 there were 1,121,111 permanent staff and workmen employed; at the end of 1923 the number was still very nearly 1 million. They must have been extraordinarily badly paid, for the percentage of the wage bill to the total expenditure was reduced in the budgets of 1922 and 1923 to 29 per cent. and 20 per cent., respectively, a figure absolutely abnormal.

The expenditure for 1924 has been calculated on the basis of a staff reduced to 793,000 although on the 1st of January the number was still 936,800. A very drastic reduction is therefore implied, and is in fact being carried through at this moment. But there will be no saving in money. Increase of wages will more than counterbalance the decrease in the number of staff, for an increase of salaries and wages amounting to 18 per cent. on the average is budgeted for. A table of the variations in the average payment is given below:

AVERAGE PAYMENT PER EMPLOYEE PER ANNUM IN GOLD MARKS

	Year 1914	*Feb., 1924*	*Budget Estimate for 1924*
Permanent staff	2,352	1,634	1,972
Workmen	1,331	1,060	1,338
Average	1,718	1,293	1,595
Percentage of pre-war average	100	75	93

We feel bound to say that the increase proposed is entirely reasonable. The remuneration of the staff, especially in the upper and middle ranks, is quite inadequate, and if good work is expected, it must be paid at its market rate.

A reserve of 200 million marks has been included to provide for contingencies, a course which we cannot other than approve.

The total expenses for the year 1924, including this reserve and interest and repayment of debt, to which we shall refer later, are set down in

the budget as:	3,530	million gold marks.
With the tariffs on the basis which we have taken above, the receipts will be	4,200	"
This would give a surplus of	670	"

This surplus would be net profit because the reserve of 200 million and 325 million gold marks for interest and repayment of the new debt has been included in the expenses.

Further it is to be remembered that the transport tax represents in effect a further net profit from the railways. If we reckoned this tax at 10 per cent. on the passenger receipts and at 7 per cent. on the receipts from freight other than coal, we should obtain for 1924 a figure of 276 million gold marks.

The total net income of the railways would then be 670+276=946 million marks, which is very close to the milliard which we have suggested is attainable within a few years.

But as we have said already, these results are applicable to the entire German railways worked as a single system, including the Rhine-Westphalian lines, under normal conditions. Certainly they will not be obtained in the year 1924, though they should be obtained very shortly thereafter.

Interest and Repayment of Debt

The sum of 325 millions set down in the budget for interest and repayment of debt during the year 1924 is divided into:

	Million gold marks
Interest	99
Repayment	225
Cost of Administration	1
	325

This debt represents liabilities recently incurred, for the old debt has practically disappeared. The total amount of the current debt is 312 million marks. Particulars are given in the reply of the Government to questions asked by the Committee. There are short term loans, overdue accounts, bills of exchange maturing, advances made by the Ministry of Finance or by the Reichsbank, and emergency currency issued by the railways which has to be redeemed. The interest charge for these debts is quite large. In certain cases we are told that interest is running at the rate of one-tenth of 1 per cent. per diem, that is 36 per cent. per annum. Evidently debts of this kind should be paid off as soon as possible.

In addition to these current debts amounting to 312 millions, it is estimated that further debt will need to be incurred as follows:

	Million gold marks
Commitments for extraordinary expenses up to March 31, 1924	110
For the expenditure of the extraordinary budget during the financial year 1924	387
For expenditure which will be necessary when the Rhine-Westphalian Railways are handed back	200
	697
Add debt already incurred	312
Total debt, actual and anticipated	1,009

As we have said, the ordinary budget for 1924 provides an amount of 225 million marks for repayment of debt. But it is evident that these expenditures charged on the extraordinary budget tend to increase rapidly, and it is therefore necessary to cut down the extraordinary budget. To this question we now turn.

The Extraordinary Budget

A budget of extraordinary expenditure has been drawn up for the interim period from November 15, 1923, to March 31, 1924. It covered originally an expenditure of 220 million, but was subsequently reduced to 170 million marks divided as follows:

	Million gold marks
CHAPTER I	
Dwellings	8
Additional rolling stock	77
Kunze Knorr brake	3
Miscellaneous	15
CHAPTER II	
Doubling of road	6
Electrification	6
Stations	32
Repair shops	13
Miscellaneous	10
Total	170

These expenses are to be covered partly by credits already available, and partly by new credits to an amount of 110 millions.

The Ministry has also furnished us with a statement of other extraordinary expenses which in their judgment are still necessary for the financial year 1924. We summarize them as follows:

CHAPTER I	*Million gold marks*
Dwellings	15
Additional rolling stock	110
Electric rolling stock	20
Kunze Knorr brake	28
Miscellaneous	40
CHAPTER II	
New tracks	10
Doubling of road	13
Electrification	10
Stations	94
Repair shops	36
Miscellaneous	11
Total	387

In addition to this expenditure of 387 million marks in 1924, it is estimated that a further sum of 236 millions will subsequently be required merely to complete works already begun. This represents the final state of a program amounting altogether to 1,610 million marks.

This estimated expenditure, which will have to be covered by loans, has, so we are told, already been reduced to an absolute minimum. All the same, we think it ought to be re-examined point by point in order to stop or at least postpone work not absolutely necessary, except where it has been carried to such a point that it had better be completed.

The works and the rolling stock of the German railways were very fully adequate before the war. Since the war no money has been spared to enlarge works and buildings and to renew and even increase the rolling stock to an extent which will make it impossible to justify any new expenditure of this nature for some years to come. We give below particulars as to the rolling stock which bear out this statement.

Rolling Stock

Below is a comparison based on figures furnished to us in Berlin, of the German railway rolling stock before the war and in 1924. We have ignored electric locomotives and motor cars:

	Steam Locomotives	*Carriages*	*Wagons*
End of 1913	27,940	62,050	657,150
January, 1924	29,966	67,800	723,100

Further rolling stock ordered last year from private firms and not yet delivered amounts to:

Locomotives	*Carriages*	*Wagons*
884	1,453	25,653

Delivery of this stock was due by the beginning of May, but has been delayed owing to the occupation of the Ruhr. It is not now expected to be complete till the end of the year.

These figures show that the whole of the rolling stock handed over, either at the Armistice or together with the territory ceded under the Treaty of Peace, has been replaced by new.

Old and out-of-date rolling stock, which could only be replaced to a very small extent during the war, has been written off and replaced since 1920; a considerable quantity of additional rolling stock has been built.

It is worth while producing a table showing the locomotives written off and replaced for each year of the last eleven:

	Locomotives
In 1913 there were written off	600
In 1914 " "	379
In 1915 " "	253
In 1916 " "	237
In 1917 " "	220
In 1918 " "	167
In 1919 " "	191
In 1920 " "	690
In 1921 " "	1,849
In 1922 " "	1,585
In 1923 " "	1,500
Total	7,671

The same thing has happened with carriages and wagons. We give a table showing the new rolling stock acquired since 1914:

	Steam Locomotives	*Carriages*	*Wagons*
Delivered: 1914–18	8,859	11,832	181,196
1919–23	8,506	12,313	246,388
Ordered but not yet delivered	884	1,453	25,653
	18,249	25,598	453,237

The result is that 18,249 locomotives and 478,835 carriages and wagons, two-thirds of the entire stock, has been built within the last ten years; and that accordingly the rolling stock of the German railways is much superior to that which they possessed in 1914.

Replacement of rolling stock on this colossal scale has necessarily entailed enormous expenditure. We are unable to give the actual cost, for it is spread over various budgets.

The figures which have been given to us show an expenditure, up to the end of 1922 only, of 2,267,774,488 marks.

This figure does not include the cost of replacing the rolling stock handed over to the Allied Powers in 1919, 1920 and 1921, which was paid for by special credit granted by the Ministry of Finance, amounting when reduced to gold marks to 739,347,006.

The replacement of rolling stock written off is charged against the ordinary railway budget. Additions to rolling stock are charged against the extraordinary railway budget.

From November 15, 1923, to April 1, 1924, rolling stock to an amount of 150 million gold marks will be so charged.

A further expenditure of 50 million marks in the ordinary budget and of 110 million marks in the extraordinary budget is proposed for the year 1924.

Kunze Knorr Continuous Brake

The application of the Kunze Knorr continuous brake to freight trains has also implied large expenditure. It was decided in 1918, while the war was still going on, to adopt this policy in order to release a large number of brakemen, and to make possible an increase of speed of freight trains, more especially of military trains. This policy has been energetically pursued since the war; on the one hand, all the new wagons ordered have been fitted with continuous brakes; and on the other hand, the equipment of the old stock has been pushed on.

The entire program is expected to be completed by April 1, 1925. The total expenditure will amount to 400 million marks, of which 117 millions still remain to be paid. But it should be said that the Kunze Knorr Company has agreed to spread the payment over a period terminating only on October 1, 1926.

Tariffs

Freight Tariffs

A study of the freight tariffs of any country at any time involves prolonged investigation of a vast mass of bewildering detail. To present in brief outline the broad general effect is almost impossible. Certainly

the short time available has not made the task possible for us. In Germany its difficulty is increased by various special circumstances.

In 1921 the whole basis of the freight tariffs was altered by the abandonment for a large part of the traffic of flat mileage rates, and the substitution therefor of *Stafeltarife*, that is, rates under which the charge per mile decreases as the mileage increases. Simultaneously, most of the exceptional tariffs, under which the bulk of the traffic had hitherto passed, were withdrawn. Many of them have since been restored in a modified form. And this is only the railway side of the difficulty.

The currency question complicates the whole story. Tariff advances were at the outset made in the shape of percentage increases of existing rates. Then came a period when an index figure was adopted with a varying multiplicator. Finally in November, 1923, the tariffs were calculated on a gold basis. The result, as we are informed, was that the freight tariffs were found to be on a level so high in comparison with the capacity of the traffic to bear the rates, that reductions on a large scale became absolutely necessary.

We are far from satisfied that this was or is the case. We feel convinced that further investigation would support our general conclusions that the freight rates have been, and are proposed to be, reduced in a manner and to an extent which cannot be justified from the railway point of view, and that this has resulted from the training and mental attitude of the officials, who have been brought up to share the views expressed in the quotation from Dr. Sarter which we have given above.

At the same time we feel it necessary to utter a note of warning. Our conclusion, that freight tariffs might be a good deal higher than the German officials think they can profitably be, is based mainly on the average receipts per ton-kilometer to-day as compared with the pre-war figures. We are told that these figures give a misleading impression of present-day facts. And numerous comparisons of certain important rates and classes of rates, pre-war and postwar, have been submitted to us, which would, if typical, put a different complexion on the matter. In spite of these tables we still adhere to the opinion we have expressed. But the Committee will appreciate that what we have said is only an expression of opinion, and cannot claim to be a considered judgment based on fully ascertained statistical facts.

We have found it impossible to satisfy ourselves how high the present German freight tariffs really are. The earliest documents submitted to us stated that the freight tariffs might be assumed to be double the pre-war tariffs. The facts do not seem to us to bear out this statement. Before the war the freight charge per ton-kilometer averaged 3.36 gold pfennigs. It is estimated by the officials that in November, 1923, at the moment when the gold mark was substituted for paper marks of indefinite

value as the medium of payment for railway services, the average rate was double the pre-war. In other words, according to the official estimate, the average rate in November, 1923, should have been 6.72 pfennigs per ton-kilometer. But this is no more than an estimate, and we doubt its accuracy.

From this date there began a process which is still continuing of repeated and important reduction of rates regarded as excessive. There is statistical ground for believing that in the early part of January, 1924, the average rate was 5.89 pfennigs, an advance, that is, not of 100 per cent. but of 75 per cent. above the pre-war average. On January 20th a number of important reductions came into force, and the estimate, based on such statistics as were available, was in the middle of February that the then average rate was 5.55 pfennigs, and advance on pre-war rates of 65 per cent. The reductions are however still going on, and some of them are of great importance. On March 1st an all-round reduction of 10 per cent. was made on a large part of the traffic.

The budget estimate of freight traffic receipts is made on the assumption that the average freight rate during the year will have been brought down to not more than 4.50 gold pfennigs, which is equivalent to an advance over the pre-war tariffs of only 33 per cent. No doubt this estimate errs, as was intended, on the side of caution.

On this policy we will make two observations. Taken as a whole, we have difficulty in believing that all particular reductions made and proposed can be justified. Even assuming that in certain cases reductions have been and are desirable in the interest of the railways, we feel convinced that reductions are being conceded which need not be made, and that at least in some cases the percentage of reduction is unnecessarily large. We have learned that exceptional tariffs involving great reductions, both for import of raw materials and for export of German produce, are being very freely introduced. The import rates for jute have been reduced by 25 per cent.; for raw cotton and raw wool by 50 per cent. A reduction of the rate for miscellaneous wares exported by sea, amounting to 30 per cent., is on the point of coming into force; and a reduction of 30 per cent. to 40 per cent. in the rates for steel and iron exported by sea is contemplated.

There is a point in connection with the freight tariffs and freight revenues which, though the precise facts are obscure, is of considerable importance. The Budget estimate for 1924 assumes, apparently with good reason, that the ton-kilometers to be carried in 1924 will be roughly equal to those of 1913. But conditions have greatly changed in the interval. The number of tons carried has fallen apparently by about 20 per cent., while the distance the average ton travels has increased in corresponding ratio. The German officials adduce three main causes for the increase in the average length of haul:

(1) the introduction in 1921 of *Stafeltarife;*
(2) changes in the previous currents of traffic consequent on the war and the establishment of new political frontiers;
(3) diversion of traffic in consequence of the occupation of the Rhine-Ruhr territory.

The effect of (1) will be permanent; the effect of (2) will probably diminish with time; the effect of (3) will presumably be only temporary. We cannot estimate what proportion of the ascertained results has been due to these three causes respectively. But it is clear that, if in future years the tonnage does not increase, while the average length of haul goes back to anything approaching the pre-war figure, the effect on the railway revenue will be quite serious.

Before we leave the question of freight tariffs, we desire to make one observation. We have admitted that the facts are obscure; that our investigations have not been and could not be pushed very far. We have acknowledged that we have hesitated as to certain conclusions. It may well be that, where we have expressed a definite opinion, time will prove the opinion wrong.

All this we have had in mind; it does not affect the thing which from the point of view of the Committee is the really important matter, that we retain the convinction that the German railways can and should produce a net revenue of 1 milliard gold marks per annum available for reparation. Our forecast may well prove erroneous on certain points, too optimistic in one direction, too pessimistic in others. But our estimate is based on broader grounds than tariff details and to it we adhere.

Passenger Tariffs

The German railways have nominally four classes of passengers; but first-class carriages are not run on local trains, and fourth-class carriages are not run on express trains. The fares before the war were respectively at 7 pfennigs, 4.5 pfennigs, 3 pfennigs and 2 pfennigs per kilometer. In April, 1917, the transport tax, amounting to 16 per cent., 14 per cent., 12 per cent. and 10 per cent. on the gross receipts from the four classes respectively was introduced.

In spite of the tax, which is estimated to amount for 1924 to 85 million gold marks, the railway management did not raise fares till September, 1923. At this date the fares were increased, including tax, to 19.6 pf., 9.9 pf., 3.3 pf. and 2.2 pf. per kilometer, for the four classes respectively. Therefore the 3d and 4th class fares were only increased by the amount of the tax while the 1st and 2d class fares were more than doubled. The result of fares so obviously out of proportion was to empty the higher classes. Accordingly in December last, the 1st and 2d class fares were

reduced by one-third. But even then, the 1st class fare was four times the 3d class, and six times the 4th class. Naturally the 1st class was absolutely empty, being used by seven passengers out of 10,000, while seven passengers out of 100 traveled 2d class. A good deal more than half the passengers travel in the 4th class, and a good deal more than one-third in the 3d class. Seeing that a 3d class passenger could till a few weeks ago travel 30 kilometers, and a 4th class passenger 45, for one gold mark with an ordinary ticket, and that more than half the total number of passengers in fact travel with season tickets issued at a rate roughly one-half of the ordinary rate—could travel, that is, respectively 60 and 90 kilometers for one mark —it is not surprising to find it admitted that the rates for passenger traffic have been quite insufficient to cover the working expenses. At length, as from the 1st of March, while the 1st class fares have been further reduced to a level which may possibly secure a few additional 1st class passengers, the 3d and 4th class fares have been increased by 36 per cent. The fares of the four classes are now 9 pf., 6 pf., 4.5 pf. and 3 pf., per kilometer, and the ratio between the classes is less unreasonable than hitherto.

We can hardly think that these new fares will be unduly burdensome to the German public, seeing that the German 3d class fares per kilometer will still be only half the corresponding fare either in England or in the United States. But the public have so long been accustomed to be carried at non-commercial rates that we think some falling off of traffic is to be expected, at least at the outset. We have accordingly estimated that a 36 per cent. increase in fare will only produce a 30 per cent. increase in receipts.

Future Control—The Railway Commissioner

It is evident from the facts and figures set out above, that the German Government has since the war run the railways in a manner which cannot be defended. On the receipts side it has failed to raise the revenue which might have been and ought to have been raised. On the expenditure side it has spent capital not merely on restoring the pre-war situation, but on betterments of all kinds which under the existing conditions cannot be justified. The railways have not merely been restored to their pre-war state of efficiency, but have been brought up to a much higher standard, a standard which to the best of our knowledge is superior to that of any other country. We are given to understand that even inside the Ministry itself this policy has been severely criticized. The excuse is that the pressure on the one hand of the great manufacturers to keep their works going and to avoid a wholesale dismissal of employees, which might lead to revolts or even revolution, was too strong to be resisted; while on the other side, the poverty of the mass of the pop-

ulation was so great that the Government was compelled to maintain railway rates at a low level. Whatever may have been the reason, there can be no doubt of the facts.

Our own view is that, while the reasons above had considerable weight, the action taken was by no means wholly due to external pressure. The officials in the tariff section of the Ministry were, as we have repeatedly said, only too ready to subordinate railway interests to non-railway circumstances. And the executive officers, whether charged with engineering or traffic management, were afflicted with what it is not too strong to describe as megalomania. They regarded it as due to the dignity of the German Reich that buildings should be magnificent, that railway plant should be up to a very high standard, that such and such services should be given, and so on. They had never been taught the commercial necessity of cutting their coat according to their cloth.

Now the mere transference of the railways from State to Company management will not of itself alter this mental attitude. A large part of the Board will be German; the General Manager will be German; and his responsible officials will be the same men who have inspired and carried out the railway policy of the past. We think it therefore essential that a Railway Commissioner should be appointed by and on behalf of the Allies to supervise and, if it should hereafter become necessary, to control in their interest the German management. We will therefore, in concluding this Report, deal with what in our opinion should be the functions of the Railway Commissioner and the organization of his staff.

The Railway Commissioner

The Railway Commissioner must be a person who is acknowledged in the railway world as being in the first rank. It must be left for him, when appointed, to say what assistance he needs, in order to be able to assume responsibility for control of all branches of railway management. It will be his duty also to consider how far it is necessary to have local representatives in any or each of the districts into which the German railway system may hereafter be divided.

We assume that when appointed he will produce to the Board an outline of the organization and the staff that he regards as necessary, and it will be for the Board to approve his scheme. He must have the right to receive of course all Reports, statistical and financial returns, proposals for extra-routine expenditure, whether on capital or revenue account, for changes in tariffs or for the concession of exceptional rates and the like, when they are of such importance as would normally require the sanction of the General Manager. He must also have the right to call for any further Reports, returns and statistics, as he may think necessary, in order to enable him to form an independent judgment.

Being in possession of full and up-to-date information as to everything that is happening or is proposed, his first duty will be to decide whether to approve or disapprove. If he disapproves, or even hesitates to approve, he will discuss the matter with the General Manager. He may be of opinion that things are going wrong, or that a course of action inconsistent with the railways being able to earn a financial return is likely to be adopted. In such a case it will be his duty, if he fails to induce the General Manager to modify his policy, to bring the matter to the attention of the Board in order that they may be in a position to take such action as they think fit. It is to be hoped that, if the right man is appointed to the post, he will be able to work in entire harmony with the General Manager; and that the General Manager, so far from resenting his interference, will welcome his support in putting a stop on the one hand to unnecessary expenditure, and in enforcing on the other hand the establishment and the maintenance of tariffs proper and adequate to secure for the railways as much net revenue as can reasonably be obtained without unduly hampering the trade of the country.

A second function of the Commissioner will naturally be to make for the foreign members of the Board reports on any points which they may regard as of serious importance. We may suggest the reasonableness of the greatly reduced German export tariffs as a sample of this class of question. It is clear that the Allied Nations have a right to claim that the net revenue of the German railways should not be reduced in order to give to German manufactures an unreasonable advantage in overseas markets.

It does not seem necessary to discuss in detail what would be the position of the Commissioner if the German railways failed to yield the net revenue fixed as reasonable for reparation purposes. We assume that, broadly speaking, in this case the Commissioner General will take over the functions of the General Manager, and that, in lieu of discussing with the General Manager or recommending to the Board of Directors, he would be empowered to issue positive orders, whether for stopping expenditure which he considered unjustifiable or for an increase which he considered reasonable in existing tariffs. It is evident that it would be necessary to require the German Government to agree in advance that, if payment on the agreed scale failed to be reached or even if there was serious danger that this failure would occur in the immediate future, the Commissioner, as the representative of the Allies, should be entitled to enter into full control.

(Signed) W. M. Acworth.
G. Leverve.

ANNEX NO. 4 TO THE REPORT OF THE FIRST COMMITTEE OF EXPERTS

CONCESSION OF THE WORKING OF THE GERMAN RAILWAYS TO A COMPANY

Concession of the Working of the Railways

The working of the German railways shall be legally transferred to a company by a fixed date. The law will ratify the contract to be entered into between the German Government and the company to which the concession is made. The contract will provide that no change can be made in the conditions of the concession without the consent of the company and the trustee for the bondholders referred to below.

The law will further provide that the company shall have a monopoly of all railway extension in Germany.

The charter of the company will be annexed to and approved by this law. Before being submitted to the German Parliament the law will have to be approved by the Reparation Commission.

The conditions under which the working of the German railway system will be transferred to the Company by this law, shall be as set forth below.

The Company will be of German nationality.

The Company shall be responsible for the working, upkeep and normal development of the railways, including rolling stock and equipment, and will be entitled, subject to the provisions hereinafter contained as to the powers of the German Government and the Railway Commissioner, to conduct its business in such manner as the company may think proper.

The German Government shall have such control over the tariffs and service of the railways as may be necessary to prevent discrimination and to protect the public, but such control shall never be exercised so as to impair the ability of the railroad Company to earn a fair and reasonable return on its capital value, including adequate provision for its bonds and preferred shares, a return on its ordinary shares and adequate reserves for all purposes including amortization of capital. The plan to accomplish the foregoing shall be worked out by the Organization Committee hereinafter referred to.

The Company shall as from the commencement of the concession be entitled to charge the tariffs then in force. Thereafter the Company shall be entitled to vary the tariffs or any of them from time to time, subject to the provisions of Articles 365 and 378 of the Treaty of Versailles.

It shall be the duty of the Organization Committee to settle the manner in which, subject always to the preceding provision, the control of the German Government over the service and the tariffs shall be exercised.

The term of the concession shall be at least of sufficient length to allow

of the amortization of the bonds according to the provisions hereinafter contained. On the expiration of the concession, the company shall return to the German Government free from all charge, the whole of the railway undertaking, including all rolling stock and equipment, in thoroughly good and complete working order.

As the consent of the German States is necessary under the German Law of 1920 for any alienation of or charge upon the German railways, the German Government shall make in this respect all necessary arrangements with the States concerned. These arrangements shall be ratified by the law granting the concession.

This law shall confer upon the Company the right to mortgage any property belonging to the railways.

It shall also contain an undertaking that neither the Reich nor the States nor any public authority shall impose on the Railway Company any new direct tax, whether upon receipts either gross or net, or upon movable or immovable property or in respect of the employees of the company or otherwise howsoever.

The Railway Company

Article I

Capital of the Company

The total capital which will be created, added to the first mortgage bonds for eleven (11) milliard marks gold referred to below, will correspond to the capital cost of the German railway system (26 milliard marks gold).

Preference shares will be created to the amount of 2 milliard gold marks, bearing a fixed rate of dividend and entitled to participation in the profits of the railways, after payment of the annual payments mentioned below. This dividend and this participation as also the terms on which the German Government may pay off or repurchase these shares, will be fixed by agreement between the German Government and the Organization Committee described below.

These preference shares will be sold by the Company for the profit of the German Government and of the Company itself, one-fourth (¼) of the sum thus obtained will be the property of the German Government and three-fourths (¾) the property of the Company. The sales of shares will be made under such conditions that the German Government will receive the whole sum due to it within two years. If the German Government so requires, the proceeds of the first sale of shares may be reserved for its use.

The balance of the capital cost of the German railway system (*viz.*, 13 milliard gold marks) will be represented by ordinary shares, to be owned by the German Government and to be kept or sold by it as it prefers.

Article II

Administration and Management

The Company will be administered by a Board of Directors of at least eighteen (18) members, who shall all be business men of experience or railway experts. Half (½) of these will be appointed by the German Government and half by the Trustee referred to below.

As soon as preference shares are issued to the public, the holders of these shares shall be entitled to elect four members of the Board in place of four members appointed by the German Government.

The Organization Committee will also fix the duration of the term of office of the Directors of each class.

Of the nine (9) members of the Board of Directors appointed by the Trustee, five (5) may be German nationals.

The Chairman of the Board will be elected for one year by a three-fourths (¾) majority of the members of the Board and will be eligible for re-election as long as he possesses the necessary qualifications.

As soon as the preference shareholders shall elect directors, the Chairman shall be chosen from the Directors so elected.

He will in addition to his vote as a member of the Board, have a second or casting vote.

The General Manager of the Company shall be of German nationality.

He will not be eligible for a seat on the Board. He will be appointed by a three-fourths (¾) majority vote of the Board.

He may be removed by the same majority. If, however, his removal is requested by the Commissioner (provided for in Article III below) on account of violation of the Charter of the Company or of failure to comply with the instructions of the Board of Directors, he may be removed by a simple majority vote of the Board.

Whatever decisions may be taken with regard to the operation of the railways, it must be understood that any breaking up of the working of the system into local divisions must not in any event affect the financial and tariff unity of the undertaking.

Article III

Commissioner

The Railway Commissioner shall be a person accepted in the railway world as being in the front rank.

He shall be appointed by a majority vote of the foreign members of the Board of Directors.

He shall not be a member of the Board.

He will have an adequate staff of experts in railway matters and in accountancy.

The Commissioner will have a general right of inspection over the whole railway system and all the railway installations and subdivisions, either in person or by deputy.

He shall also be entitled to receive all reports, statistical and financial returns, proposals for extra-routine expenditure whether on "capital" or "revenue" account, for changes in tariffs or for the concession of exceptional rates, and the like, which are of such a nature as would normally require the sanction of the General Manager.

The Railway Commissioner will further be entitled to call for any other reports, returns, or statistics which he may consider necessary in order to enable him to form an independent opinion. All this information shall be furnished promptly, fully, and accurately at his request. If any measure in connection with construction, operation or tariffs tends substantially to menace the rights or interests of the bondholders or of the Reparation Commission, as defined below, and in particular to endanger the payment at the due dates, referred to in Article V below, he shall discuss the question with the General Manager. If he cannot persuade the latter to change his line of conduct, he must lay the question before the Managing Board, in order that it may take any measures it may deem necessary.

If the service of the bonds hereinafter mentioned is in jeopardy, the Commissioner shall have regard to the provisions for the security of the bondholders hereinafter contained.

The expenses of the Railway Commissioner and his staff shall be an operating charge upon the receipts of the railways.

Article IV

Bonds

The Company shall forthwith, after its creation, issue without payment and for the purpose of reparation, to a Trustee appointed by the Reparation Commission, first mortgage bonds to a nominal amount of 11 milliard gold marks carrying interest at 3 per cent. per annum for the first financial year of the Company, at 4 per cent. plus a bonus of 25 millions for the second, 5 per cent. for the third and subsequent years, and to be amortized by a sinking fund as hereinafter provided.

Payment of these bonds shall be guaranteed by the German Government and they shall be signed both on behalf of the Company and by the Finance Minister acting on behalf of the German Government.

These bonds shall be secured by a first registered mortgage or charge

on the corpus and revenues of all immovable property used by or belonging to the Company, present or future, and by a first floating charge on all its fixed and movable plant, rolling stock and all installations. The Company shall be authorized by the concession to create this mortgage and charge, the duration of which shall not be limited to the period of the concession.

This mortgage and this first floating charge shall be expressed to be in favor of the Trustee to be appointed by the Reparation Commission, provided always that the Company and the German Government shall be entitled at any time, with the consent of the Trustee, to sell or dispose of any particular property used by the Railway Company which may be considered to be no longer needed by the latter, upon such terms as to the application of the proceeds of the sale as may be agreed upon by the Trustee.

The service of the bonds shall be assured by the following payments which shall be made to the Trustee from the gross receipts of the Company and before the ascertainment of any net profits; that is to say:

	Million gold marks
(*a*) for the first financial year of the Company . . .	350
(*b*) for the second financial year	465
(*c*) for the third financial year	550
(*d*) for the fourth and subsequent financial years . . .	660

If in any year the German railways fail to realize receipts sufficient to allow of the payments above-mentioned (it being understood that the Company may draw upon whatever reserves may be available for this purpose until such reserves are exhausted), the Railway Commissioner shall have the right to take such action as the Trustee for the bondholders may consider is necessary to protect the rights of the bondholders, including the right to operate, to lease, or to sell all or any of the railways and property subject to the mortgage or charge of the bonds.

From and after the end of the fourth year from the date of the formation of the Company, the bonds shall be amortized, under the conditions to be determined by the Trustee with the approval of the Reparation Commission, by the application in each year of such part of the annual payments above-mentioned as shall not be required for the interest on the bonds.

The German Government and the Company shall also be entitled at any time to pay to the Trustee sums additional to the above payments with the authorization of the Reparation Commission which shall ascertain from the Transfer Committee that the transfer of these additional funds does not disturb the transfer of the annual payments. Any sums so paid

shall be applied first to the discharge of any interest in arrear and next upon six months' public notice in redeeming at par all or any part of the bonds for the time being outstanding.

The Reparation Commission shall be entitled, with a view to the mobilization of the bonds, to divide the same in any manner which it may think expedient into different classes with different rights—as to priority of charge, rate of interest, repayment of capital and otherwise—against the annual payments to be made by the Company, and to issue to the public upon such terms and generally in such manner as the Commission may think proper, bonds, debentures, debenture stock, certificates of indebtedness or other securities of any nature secured upon the whole or any part of the bonds.

The Company shall not be able to issue other bonds than those referred to above without the authorization of a three-fourths majority of the members of the Board, of which majority two must be foreigners.

All payments of interest and capital in respect of the bonds shall be free from all German taxation except in so far as the persons entitled thereto may be liable under German law to the payment of German direct taxation.

Subject as herein provided the form of the said bonds and all provisions as to the enforcement and repayment thereof including drawings and giving time for payment shall be settled by the Trustee with the approval of the Reparation Commission.

Article V

Enforcement of Government Guarantees

If the Company shall at any time make default in meeting the service of the bonds, the Trustee may in lieu of or in addition to the measures mentioned in the last preceding Article present the accrued coupons or any bonds due for repayment to the Commissioner of Controlled Revenues who shall pay them at their face value out of the portion of the receipts of the assigned revenues falling to the share of the German Government. The coupons and bonds so paid shall be included at their face value in the repayments made by the Commissioner of Controlled Revenues to the German Government. The amounts so paid may only be repaid by the Company to the Government after the necessary provision has been made for the current and the next coupons on the bonds and for the fixed dividend for the current year on the preference shares.

Article VI

Transportation Tax

The Company shall on behalf of the Government pay to the Reparation Commission the proceeds of the transportation tax as at present levied, *i.e.*, a tax of 7 per cent. on the gross receipts from all freight traffic other than coal, and a tax of 10 per cent. to 16 per cent. according to class, on the gross receipts from all passenger traffic. This payment shall be made during the first and each of the following years of the concession and until the conclusion of any extension, even if in the course of the concession the whole of the bonds have been paid off.

The rate of the transportation tax shall not be reduced during the whole of the concession. The proceeds of the tax may be employed by the Trustee to secure the issue of a special series of bonds for 3 milliard gold marks, or thereabouts.

Article VII

Financial Arrangements

The bank account shall be kept at the new Bank. Payments by the Company hereinbefore prescribed shall be paid to the account of the Railway Commissioner. The latter shall transfer these sums to the credit of the agent for Reparation payments.

Article VIII

Anticipatory Redemption of Bonds

If all the first mortgage bonds should be redeemed before the expiration of the term of the concession by special subsidy by the German Government to the Company, the Government shall be entitled to require that the functions of the Railway Commissioner hereinbefore mentioned shall come to an end and that the foreign directors shall be replaced by German directors. In default of other arrangements, the transportation tax shall continue to be paid to the Reparation Commission.

The German Government shall in that case also have the right to purchase or repurchase the preference shares at par, plus dividend and arrears of dividend if accrued.

Article IX

Organization Committee

A temporary committee with the title of the "Organization Committee of the German Railway Company" shall be constituted in order to work out, subject to the foregoing provisions, the details necessary

for the creation of the German railway company and the execution of this plan. The Committee shall consist of two delegates appointed by the German Minister of Railways, the railway specialists, Sir William Acworth and M. Leverve, who are familiar with the discussions which have led to the adoption of this scheme, or a nominee or nominees to be appointed by them jointly together with a fifth member of neutral nationality to be chosen by the four thus appointed or, in default of such choice, to be appointed by the Reparation Commission.

This Organization Committee will come to an end as soon as may be after the Railway Company has been constituted, the Railway Commissioner appointed and this plan has been put into operation. The expenses of the Committee and of their staff shall be an operating charge upon the receipts of the German railways.

Article X

Arbitration

The law to be enacted by the German Parliament shall provide that so long as the functions of the Railway Commissioner hereinbefore mentioned shall not have come to an end, if any dispute or difference should arise between the Reparation Commission or any Government represented thereon, on the one side, and the Company and the German Government, or either of them, on the other side, or between the Company and the German Government, as to the interpretation of any provision of the said law, or of the charter of the Company, or of this plan, or as to anything to be done under any of them respectively, whether in respect of the capital and obligations of the Company or of its external, or internal management, or otherwise howsoever, the same shall be referred to the decision of an arbitrator who, if the German Government so desires, shall be of neutral nationality to be nominated by the President for the time being of the Permanent Court of International Justice, and the decision of the arbitrator so appointed shall be final.

ANNEX NO. 5 TO THE REPORT OF THE FIRST COMMITTEE OF EXPERTS

INDUSTRIAL DEBENTURES

Plan for Industrial Debentures

The Amount and Form

I. The German Government shall provide bonds or debentures of industrial concerns to a total nominal value of five (5) milliards of gold marks, bearing five per cent. (5%) interest and one per cent. (1%) for sinking fund per annum. These bonds shall be the individual obligations of the several concerns and shall be secured as to principal, interest and sinking fund payments by a first mortgage on the plant and property of the respective concerns making them.

The term "industrial concerns" shall include not only manufacturing concerns, but navigation, mining and any other similar concerns which the Organization Committee may indicate.

Delivery to Trustee

II. The mortgage bonds or debentures above provided for, with suitable coupons covering the interest payments, shall be delivered by the German Government to the Trustee to be appointed by the Reparation Commission, who will hold them, collect the coupons thereon, paying the proceeds into the account of the Agent for reparation payments, or dispose of them in whole or in part from time to time under the orders of the Reparation Commission. The debtor may make proposals to the Trustee for their immediate or gradual redemption, and the Committee recommends that the Trustee be empowered to give preference to such proposals of redemption and especially those of which the redemption would be effected by the use of foreign currencies, before offering such bonds in the open market or otherwise. In the event that no proposals of a satisfactory plan of redemption are made to the Trustee by any individual maker of the bonds within six months after such bonds shall have been delivered to him by the German Government, then the Trustee in his discretion, but with due regard to the protection of the credit of the debtor, shall be free to dispose of the same in such manner and on such terms as the Reparation Commission may authorize.

Guarantee by German Government

III. The German Government shall guarantee the principal, interest and sinking fund payments on such bonds; in consequence, in case of default the matured coupons can be presented to the Commissioner of Controlled Revenues, who shall purchase them at their nominal value, by means of the funds under his control which are destined to be paid over to the German Government. The Commissioner will include the coupons for their nominal value in the "reversements" to the German Government, which will have recourse against the defaulting debtor.

The German Government might, by means of subsidies, encourage the repurchase of the bonds by the mortgagors and thus free itself from its guarantee.

Tax-exemption Provision

IV. The said bonds and mortgages until redeemed shall be exempt from taxation in Germany, unless they shall be held by German nationals, in which case they shall be taxed like other similar bonds and mortgages so held by German nationals and without discrimination.

Temporary Organization Committee

V. A temporary Organization Committee shall be formed for the purpose of taking all necessary measures within the scope of the foregoing plan and for fixing the details of organization. This Committee shall include a representative of the German Government, a representative of industry, two members appointed by the Reparation Commission and a fifth member of neutral nationality to be chosen by the four thus appointed, or in default of such choice to be appointed by the Reparation Commission.

Powers of the Organization Committee

VI. (A) The Organization Committee shall have all powers to work out the details of the plan in such form as may be fair alike to the German Government, to the industrial concerns, and to the Reparation Commission, bearing in mind that it is the purpose and intent of the plan to insure for reparations account the payment of the 5 milliards of gold marks with interest thereon at 5 per cent. per annum and a sinking fund of not less than 1 per cent. thereon, which in and of itself will determine the maturity of the bonds.

(B) The Organization Committee shall have the power to determine the form and character of the mortgages, and, in case the concerns are too small to make individual mortgage issues practical and desirable, the Committee shall have power to devise some method of handling them, or may waive them altogether, provided the total sum of 5 milliards is maintained.

ANNEX NO. 6 TO THE REPORT OF THE FIRST COMMITTEE OF EXPERTS

The Transfer of Reparation Payments from German Currency into Foreign Currency and the Use of Balances Not Transferred

Transfer Committee

I. The plan provides that all payments for the account of reparations, however derived, are to be first made in the form of deposits in the bank, provided for in the plan, to the credit of "The Agent for Reparation Payments." The withdrawals from this deposit shall be made by the Agent for Reparation Payments only, under the direction of a Committee composed of five members known as "The Transfer Committee."

Composition and Selection of Members

II. The Transfer Committee shall be composed of six members; the Agent for Reparation Payments shall be a member and the Chairman; the other five members shall be persons qualified to deal with foreign exchange questions. They shall consist of an American member, a French member, an English member, an Italian member and a Belgian member. Each of them shall be appointed by the Reparation Commission, after the member of the General Board of the Bank of the same nationality has been consulted.

Co-operation of the Bank

III. The Committee will be in contact with the President and the Commissioner of the Bank.

Powers of the Committee

IV. The Committee shall have power, and it shall be its duty:

(*a*) to apply such bank balances for payments for deliveries in kind and payments under the Reparation Recovery Act, in accordance with the program established periodically by the Reparation Commission, after consultation with the Transfer Committee as to the character and amount of such deliveries;

(*b*) to convert these bank balances into foreign currencies from time to time and, after conversion, to remit them in accordance with the instructions of the Reparation Commission.

Both the foregoing powers (*a*) and (*b*) to be exercised to the extent to which in the judgment of the Committee, the foreign exchange market will permit, without threatening the stability of the German currency.

(*c*) to invest from time to time in bonds or other loans in Germany such amounts as the Committee may deem wise. The Committee shall proceed to make these investments as soon as the amount of the credits exceeds the sum which the Bank will keep on deposit. On the other hand, the Committee may sell the bonds which it has acquired, or liquidate the loans which it has granted, whenever in its opinion the sums may be converted into foreign exchange, or the Bank can accept additional deposits.

Restriction on Purchase by the Creditors

V. The goods supplied by Germany to the creditor countries under paragraph IV (*a*) above and paid for by the Bank as above provided, shall be for the sole use of the countries receiving them for their internal requirements, including the requirements of their colonies and dependencies. The goods so delivered shall not be exported from the country receiving them, except by agreement between the Committee acting unanimously and the German Government.

VI. In addition to its powers under paragraph IV, the Committee may on the instructions of the Reparation Commission and at the request of the creditor States, by debiting their accounts, transfer marks to private individuals for the purpose of making purchases in Germany, such reinvestment not to be of a temporary character, and such property being of classes contained in a schedule agreed to between the Committee and the German Government, and modified from time to time by similar agreement. In arriving at such agreement, the German Government shall be required to have due regard to the necessity for making maximum payment to its creditors, but it shall also be entitled to have regard to maintaining its control of its own internal economy.

Co-operation by the German Government and the Bank

VII. The German Government and the Bank shall undertake to facilitate in every reasonable way within their power the work of the Committee in making transfers of funds, including such steps as will aid in the control of foreign exchange. When the Committee is of the opinion that the Bank's discount rate is not in relation to the necessity of making important transfers, it shall inform the President of the Bank.

Attempts to Defeat Transfer

VIII. In the event of concerted financial manœuvers either by the Government or by any group, for the purpose of preventing such transfers, the Committee may take such action as may be necessary to defeat such

manœuvers and in such circumstances it may suspend the operation of paragraph X, may accumulate the funds or employ them in the purchase of any kind of property in Germany.

Tax-exemption Provision

IX. The German Government shall not tax the deposits in the Bank or goods purchased for the creditor countries pending removal, nor any securities or loans representing investment of funds pending transfer, nor any property purchased under the provisions of the paragraph next preceding. This exemption does not apply to property purchased under paragraph VI, but, on the other hand, there should be no tax discrimination against such property.

Provisions for Limitation of Accumulation

X. (*a*) When the accumulation of funds not transferable under the provisions of sub-divisions *b* and *c* of paragraph IV shall have reached the sum of five (5) milliard gold marks (whether represented by bank deposits or loans) the payment for Treaty charges provided for shall be reduced to such an amount as will cover the transfers and payments provided for under sub-divisions *b* and *c* of paragraph IV without additional accumulation. Such partial suspense of Germany's obligations shall be operative only during the period that the conditions of transfer necessitate, and the standards of payment laid down in the plan shall be resumed at any time when they can operate without the limits of accumulation herein laid down being exceeded.

(*b*) The Committee shall have power to suspend accumulation before reaching five (5) milliard gold marks, if two-thirds (⅔) of its members are of the opinion that such accumulation is a menace to the fiscal or economic situation in Germany or to the interests of the creditor countries.

(*c*) The Committee shall, by a two-thirds (⅔) majority, have power to waive the limit accumulations under the conditions provided for in paragraph VIII.

ANNEX NO. 7 TO THE REPORT OF THE FIRST COMMITTEE OF EXPERTS

NOTE ON THE CURRENCIES CIRCULATING IN GERMANY ON THE 31st JANUARY, 1924[1]

Chapter I

Paper Mark Currency

A. LEGAL TENDER

1. *Reichmarks.*—Reichmarks are issued by the Reichsbank under a privilege granted to it by the Banking Law of March 14, 1875. In 1913, the circulation of paper marks amounted to 2.1 milliards; on January 31, 1924, it had reached the figure of 483.7 trillion (English) paper marks representing 843.7 million gold marks at the rate of 1 gold mark = 1 billion paper marks.

2. *Notes of Private Banks.*—Banks, which at the time of the promulgation of the Law of March 14, 1875, had the right to issue notes, have retained this privilege. The number of these banks, which was originally 32, has decreased progressively; at the present time there are only four private banks, namely:

Bayerische Banken,
Sächsische Bank,
Badische Bank,
Würtembergische Notenbank.

The total circulation of notes issued by these four institutions amounted in 1913 to 140 million gold marks. At the end of January, 1924, it represented about 100,000 gold marks.

3. *Reichskassenscheine.*—These currency notes were issued at the time of the formation of the Reichsbank (1875) in order to make it possible to place the fiduciary circulation on a sound basis by means of the withdrawal of the State notes then in circulation. The issue was orginally fixed at 120 million gold marks, corresponding exactly to the war treasure (in gold) deposited at Spandau. The circulation, which reached the figure of 320 millions in 1920 progressively decreased until August, 1923, when it still amounted to 200 million gold marks. At that date the Reichskassenscheine in circulation were completely withdrawn.

4. *Darlehenskassenscheine.*—(Bonds issued by the Darlehenskassen during the war.) The issue reached its maximum figure in October,

[1] In the English text of this document the English system of enumeration is followed throughout.

1922 (14 milliard paper marks); these bonds ceased to figure in the statements as from August, 1923, when the circulation amounted to only 11 milliard paper marks, corresponding to less than 10,000 gold marks.

B. AUXILIARY INSTRUMENTS OF PAYMENT

1. *Issue of Secured Notgeld.*—The issue of Notgeld (emergency currency) was regulated by the Law of July 17, 1922. This currency was issued with a view to supplementing that issued by the Reich, the Reichsbank and the private banks of issue, the total value of which in circulation was constantly decreasing as a result of the fall of the mark. The previous authorization of the Minister of Finance was necessary. The Notgeld was to be secured by a deposit in fixed values, earmarked in favor of the Reich Minister of Finance, and corresponding to the amount placed in circulation, less the actual or estimated expenses of issue. This asset was to remain at the Reichskreditanstalt at Berlin, which would allow interest at 2 per cent. less than the rate of discount of the Reichsbank. The cover for the Notgeld might also consist of three months Treasury Bonds; but in this case, it was the Reichsbank which would issue the Notgeld and accept the deposit in Treasury Bonds offered as guarantee.

Authorization to issue Notgeld was granted to public and private organizations for a total figure, which at the end of 1923 amounted to 7.6 trillion paper marks, corresponding to 7.6 million gold marks. The circulation of this Notgeld amounted on December 31, 1923, to 3.4 trillion paper marks, that is, *3.4 million gold marks.* An endeavor has since been made to withdraw the Notgeld from circulation; a decree of January 2, 1924, prescribed the complete withdrawal in certain unoccupied territories. On January 31, 1924, the circulation amounted to 1.4 trillion paper marks, or *1.4 million gold marks.*

2. *Issue of Unsecured Notgeld.*—Numerous emergency currencies have been issued without authorization from the German Government, and without the formation of a guarantee deposit, both by public and private organizations and even by private individuals.

The amount of this Notgeld issued without authorization or guarantee and in circulation at the end of January, 1924, is estimated by the German Government as follows:

	Million gold marks
(*a*) In unoccupied territory	27.6
(*b*) In occupied territory	132

3. *Railway Notgeld.*—In order to cover the working deficit, the Reich railways issued 114 trillion paper marks during 1922 and 1923. This

currency was secured by a Reich deposit at the Reichsbank of 90 million Rentenmarks. At the end of January, 1924, 56 millions were still in circulation.

Chapter II

Instruments of Payment in Gold or at a Fixed Value

1. *Rentenmark.*—The Rentenbank was created by the Decree of October 15, 1923. The method of creation and operation is known.

The issue of notes in Rentenmarks began on November 15, 1923.

According to the balance-sheet of the Rentenbank on January 31, 1923, the amount issued at that date was 1,374 million Rentenmarks.

The introduction of the Rentenmark has stopped the issue of Notgeld of fixed value.

2. *Dollar Treasury Bonds* (*Dollarschatzanweisungen*).—The Law of March 2, 1923, authorized the issue of Dollar Treasury Bonds for a total amount of 50 million dollars (210 million gold marks). These bonds, issued in denominations of from 5 to 100 dollars, do not bear interest, but are redeemable in gold at 120 per cent. on April 15, 1926.

These Treasury Bonds have been fully subscribed. They have been used in Germany as a means of payment.

3. *Gold Loan* (*Wertbeständige Anleihe*).—This loan authorized by the Law of August 14, 1923, is for a total sum of 500 million gold marks, which has been fully subscribed. The bonds are expressed in dollars. The small denominations of from one-tenth to 5 dollars do not bear interest and are redeemable at 170 per cent. on September 2, 1935. Bonds for 10 dollars or more bear 6 per cent. interest and are redeemable at par on the same date. These large denominations were issued first for a total sum of 164 million gold marks. Subsequent issues of large denominations raised this figure to 204 million gold marks.

In October, 1923, the monetary situation having become intolerable on account of the fall of the paper mark, and wage-earners having insisted upon being paid in currency of fixed value, the Reich decided (the preparations for the issue of the Rentenmark not being sufficiently advanced) to issue small denominations of the gold loan.

These small denominations were issued up to a total amount of 296 million gold marks, 4 millions of which were exchanged against Rentenmarks in January, 1924, in accordance with the privilege granted to the holders in this respect.

As will be seen later, 10 millions of this gold loan have been assigned as partial security for the Notgeld of a fixed value issued by the Railways.

At the end of January, 1924, therefore, the circulation was as follows:

	Million gold marks
Large notes	194
Small notes	292
Total	486

4. *Notgeld secured by 6 per cent. Treasury Bonds (6 per cent. Schatzanweisungen).*—Since the small gold loan certificates proved insufficient for the monetary circulation, the provinces, towns, chambers of commerce and the larger industrial undertakings were given authority to create emergency currency on a gold mark basis, to be covered by gold loan certificates of large denominations. Owing to the scarcity of the latter, the authorities issuing Notgeld were given permission to provide cover in the form of 6 per cent. Treasury Bonds expressed in dollars and gold marks, specially created for this purpose by the Decree of October 20, 1923. These Bonds fall due on December 1, 1932, and are redeemable at par in German currency on a gold basis.

The total amount of Notgeld thus secured (exclusive of the Notgeld issued by the railways and to which we will refer later) stood at 110 million gold marks on January 31, 1924.

This Notgeld is to be gradually withdrawn from circulation against redemption in loan bonds or German currency. Redemption was to begin on January 15, 1924, and it is hoped that the full amount will have been called in not later than April 1, 1924.

5. *Treasury Bonds and Interim Bonds issued by the States.*—Certain States issued fixed value loans, some of the certificates for which were of such small denominations that they still serve as instruments of payment. The total value of these bonds amounts to about 50 million gold marks. Attempts are being made to recall these small denominations by converting them into larger denominations.

6. *Certificates issued by the Banks of Hamburg and Schleswig-Holstein.*—Two banks, the Hamburger Bank von 1923 A. G. and the Schleswig-Holsteinische Goldgirobank A. G., were authorized by the Reich Minister of Finance to deliver, in exchange for currencies, "discount certificates" (*Verrechnungsscheine*) which still serve as instruments of payment. It is the intention of the German Government to dispense with these gold certificates as soon as a gold currency has been reinstated. The Hamburger Bank issued certificates to the amount of 25 million gold marks. No particulars are available regarding the amount issued by the Schleswig-Holsteinische Goldgirobank, but the figure is inconsiderable.

7. *Notgeld issued by the Railways.*—In order to cover their deficit, the German railways were authorized to issue, in addition to the paper mark Notgeld referred to above, Notgeld having stable value to the

amount of 200 million gold marks. Ten millions of this issue were secured by gold loan bonds as explained above, the remaining 190 millions being secured by 6 per cent. Treasury Bonds as already stated. The Notgeld issued by the railways amounted to 131.9 millions on January 31, 1924. This emergency currency is to be withdrawn from circulation by means of a loan to be issued later by the railways.

Table of Instruments on Payment in Circulation in Germany in January, 1924

	Approximate value[1] *in millions of gold marks*	
I. *Instruments of payment expressed in paper marks:*		
1. Reichsbank notes (as per return dated 31.1.24)	483.7	
2. Notes of the four private banks of issue	0.1	
3. Notgeld issued by the railways and secured by a deposit of 90 million Rentenmarks at the Reichsbank	56.0	
4. Notgeld issued against the deposit of security in currencies	1.4	
5. Notgeld issued without cover:		
a. In occupied territory	132.0	
b. In unoccupied territory	27.6	
Total I		700.8
II. *Instruments of payment expressed in gold or having fixed value:*		
1. Rentenmarks (as per Rentenbank return of 31.1.24)	1,374.0	
2. Dollar Treasury Bonds (Dollarschatzanweisungen, Law of 2d March, 1923)	210.0	
3. Gold Loan (Wertbeständige Anleihe, Law of August 14, 1923)	486.0	
4. Notgeld secured by 6 per cent. Treasury Bonds (6 per cent. Schatzanweisungen, Law of 20th October, 1923)	110.0	
5. Treasury Bonds and interim bonds issued by the States	50.0	
Carried forward	2,230.0	700.8

[1] Calculated on the basis of 1 G.M. = 1 billion P.M.

	Approximate value[1] *in millions of gold marks*	
Brought forward	2,230.0	700.8
6. Certificates issued by the Banks of Hamburg and Schleswig-Holstein (Verrechnungsscheine)	35.0	
7. Notgeld issued by the railways and secured by 6 per cent. Treasury Bonds (10 millions of which are secured by gold loan)	131.9	
Total II		2,396.9
III. *Denominational currency in rentenpfennigs*		158.0
Grand Total		3,255.7

Note.—This total does not include the foreign currencies at present in Germany which, according to the estimate made by the second Committee of Experts, would amount to 1,200 million gold marks, a figure which has been confirmed by a German authoritative source.

[1] Calculated on the basis of 1 G.M=1 billion P.M.

ANNEX NO. 8 TO THE REPORT OF THE FIRST COMMITTEE OF EXPERTS

PROVISIONAL SURVEY OF THE REICH'S BUDGET FOR 1924[1]

I. GENERAL ADMINISTRATION OF THE REICH

A. Ordinary Budget

Revenue	In millions of			Expenditure	In millions of		
	Gold Marks	£	$		Gold Marks	£	$
1. Taxes on property, traffic, trade and transfer (direct taxes)	4,004	200.2	1,001.0	1. Interest on, and amortization of debt of Empire	156	7.8	39.0
2. Custom and excise duties (indirect taxes)	1,080	54.0	270.0	2. Provision for invalids, war pensions, etc. . .	810	40.5	202.5
3. Non-tax Revenues from Public Services	60	3.0	15.0	3. Army and Navy . .	450	22.5	112.5
				4. Police	208	10.4	52.0
				5. Industrial and cultural purposes . . .	28	1.4	7.0
				6. Unemployment benefit	500	25.0	125.0
				7. Social and other expenditure	360	18.0	90.0
				8. Finance and Taxation Departments	380	19.0	95.0
				9. General administrative expenses other than the above . . .	250	12.5	62.5
				10. Assignments to the States and Communes	1,800	90.0	450.0
Total of ordinary revenues	5,144	257.2	1,286.0	Total of ordinary expenditure	4,942	247.1	1,235.5

[1] See note on page 478.

B. Extraordinary Budget

Revenue	In millions of			Expenditure	In millions of		
	Gold Marks	£	$		Gold Marks	£	$
1. Revenue from the Mint .	90	4.5	22.5	1. For war damages and removal of effects of the war	6	0.3	1.5
2. Other revenues	40	2.0	10.0	2. Public buildings . . .	44	2.2	11.0
				3. Settlement of war expenditure	20	1.0	5.0
				4. Settlement of expenditure for the Ruhr . .	60	3.0	15.0
Total of extraordinary revenues	130	6.5	32.5	Total of extraordinary expenditure	130	6.5	32.5
Total of A and B	5,274	263.7	1,318.5	Total of A and B	5,072	253.6	1,268.0

[1] The figures of this table can only serve as a preliminary estimate and are given with all reserve. This estimate of the revenues assumes complete restoration of economic unity between occupied and unoccupied territory, renewed administrative and fiscal supremacy in occupied territory on the part of the Reich and the component States, that the taxes to be levied according to the general laws of the Reich and the States are once more directed into their Treasuries.

II. EXECUTION OF THE TREATY OF VERSAILLES

Revenue	In millions of Gold Marks	£	$	Expenditure	In millions of Gold Marks	£	$
				1. Cash Rep. Payments . . . (Discharge of debt due to the Reichsbank for redemption of an exchequer bill given to Belgium.)	52	2.6	13.0
				2. Clearing Office payments	6	0.3	1.5
				3. Cost of Armies of Occupation	360	18.0	90.0
				4. Rhineland Commission . .	34	1.7	8.5
				5. Other Interallied Commissions including Reparations Commission	18	0.9	4.5
				6. Restitution, substitutions and dismantlement costs .	10	0.5	2.5
				7. Home expenditure incurred by the carrying out of the T. of V.	160	8.0	40.0
				Total of expenditure	640	32.0	160.0

BALANCE

I. General Administration of the Reich	5,072	253.6	1,268.0
II. Execution of the Treaty of Versailles	640	32.0	160.0
Total of expenditure	5,712	285.6	1,428.0
Revenues	5,274	263.7	1,318.5
Deficit	*438*	*21.9*	*109.5*

ANNEX NO. 9 TO THE REPORT OF THE FIRST COMMITTEE OF EXPERTS

COMPARATIVE POSITION OF DIFFERENT INCOMES DRAWN FROM DIVIDENDS IN THE YEARS 1920–21, 1923–24 AND 1924–25

Question Submitted to the German Government by the First Committee of Experts

Assume four men with incomes in G.M.

15,000
100,000
500,000
1,000,000

(*a*) Wholly from dividends of German industrial companies;
(*b*) One-half from German and one-half from foreign companies.

What amount of income tax (or its substitutes) plus capital tax will be payable on the scales for

1920/1
1923/4
1924/5 respectively?

Reply of the German Government

For the following reasons it is impossible to make reliable estimates of the kind desired:

(1) because the fiscal burden for 1920–21 cannot be calculated owing to the influence of the depreciation of the currency;
(2) because no assessment exists for 1923 based on sliding scale rates for that year; indeed for 1923 prepayments and payments of balance were collected which were regularly calculated on a coefficient of the 1922 taxes and were therefore not entirely immune from the influence of the depreciation of the currency;
(3) because no income tax levied on a sliding scale exists so far for 1924; the prepayments for 1924 are collected more according to external standards; the actual income for 1924 will not be assessed until 1925, when it will be based upon a tariff which will be determined by law in the course of the year 1924.

Particulars concerning the form of the taxes will be found in the memorandum transmitted (see for 1920–21, the English text, pages 81, 96; French text, pages 81, 97; for 1923–24, English text, pages 83–84, 96;

French text, pages 84, 97). Reference should be made to the Statement concerning the Budget estimates of the Wages Tax and the prepayments on the Income and Corporation Taxes for 1924 transmitted as V *a* II 1480, of February 16, 1924.

It should further be pointed out that income from dividends to the amount mentioned existed in Germany before the war to a limited extent only and is unlikely to be found after 1922, owing to economic developments during the period of depreciation of the currency.

As early as 1920, there were only six taxpayers in Germany who had an income from investments of from 3 to 10 million paper marks, that is, from 200,000 to 667,000 gold marks and 66 with an income from investments of from 1 to 3 million paper marks, that is, about 67,000 to 200,000 gold marks. From about the middle of 1922 income from investments had practically disappeared.

In view of the circumstances mentioned above, any estimates are attended with exceptional difficulties. An attempt is made below to employ available bases for valuation as required in the Questionnaire.

The estimates given in the enclosed Table showing the charge on incomes from dividends of 50,000, 100,000, 500,000 and 1 million gold marks fulfill the conditions set forth in the Questionnaire:

(*a*) that the whole income is drawn from dividends of German industrial companies;

(*b*) that half the income is drawn from German and half from foreign industrial companies.

It was necessary in drawing up this table to include in the calculation of the charges on income derived from dividends of German industrial companies, the taxes which had to be paid by the German companies if they distributed dividends to the amounts in question; it must not be forgotten that this tax is deducted before the distribution of the dividends. In converting the income in gold into paper marks and the taxes in paper marks into gold marks, the rate of the dollar has been used as the basis. This was possible because the income is indicated in gold and therefore the calculation of the tax at the dollar rate affords a basis for comparison.

In making the calculation the following assumptions have been made:

I. For 1920–21.—The dividend has been paid to the taxpayer in 1920. The tax paid by the company has first been deducted from the profits which the company made in 1919 and on which it paid the tax in 1920. A further prior charge consists of the 10 per cent. tax on revenue from capital which was deducted from the German dividends of the taxpayer at the time of their receipt in 1920 and which he paid in 1921 for his foreign dividends. From the remaining revenue, after

deduction of the tax on revenue from capital, the taxpayer has paid his income tax for 1920 according to schedule. In estimating the actual fiscal burden, account has been taken of the fact that the income was obtained in the year 1920, that the corporation tax and the tax on revenue from capital were paid at the time of receiving the dividends, that is also in 1920, and that on the other hand the tax on revenue from capital in respect of foreign dividends and the income tax were not paid until 1921, and were therefore paid in a depreciated currency. On the basis of the average dollar rate, one gold mark was in 1920 equivalent to 15 paper marks, and in 1921 to 24.9 paper marks.

Example 1.—Let us assume the income from dividends in German companies in 1920 to be 50,000 gold marks=750,000 paper marks. Before distributing 750,000 paper marks, a company in 1920 had to pay an average tax of 127,500 paper marks. The 750,000 paper marks due to the person receiving dividend were, upon receipt, reduced by 10 per cent., that is by 75,000 paper marks. In 1920, therefore, 202,500 paper marks were paid in taxes=13,500 gold marks. From the remaining 675,000 paper marks he had to pay the sum of 356,600 paper marks in income tax=14,321 gold marks in 1921. The total charge was therefore 27,821 gold marks.

Example 2.—Let us assume the income from dividends in German companies, in 1920, to be 25,000 gold marks=375,000 paper marks and from foreign companies 25,000 gold marks, making a total of 50,000 gold marks=750,000 paper marks. Before distributing 375,000 paper marks, German companies had in 1920 to pay an average tax of 63,750 paper marks=4,250 gold marks. The 375,000 paper marks in German dividends due to the recipient were, upon receipt, reduced by 10 per cent., that is by 37,500 paper marks=2,500 gold marks.

In 1920, therefore, 6,750 gold marks were paid in taxes. In 1921 the person drawing dividends had in the first place to pay a 10 per cent. tax on revenue from capital on the 375,000 paper marks, that is 37,500 paper marks=1,506 gold marks. Furthermore, after deduction of the tax on revenue from capital, he had to pay on the remaining 675,000 paper marks an income tax of 356,600 paper marks=14,321 gold marks. In this case the 1921 taxes thus amount to 15,827 gold marks. Including the 1920 taxes the total charge is therefore 22,577 gold marks.

II. For 1923–24.—It is assumed that the dividends for 1923 have been distributed to the shareholders. In the total prior charge the tax on fortunes has not been taken into account. Only the corporation tax which under the Law of March 20, 1923, on the Depreciation of Currency was paid by the company for the business year 1922, which year was taken as the basis for the distribution of dividends, has been indicated as the prior charge. On the basis of the tariff the prior charge amounted to 45

per cent. Owing however to the great depreciation of currency in 1923, the gold value on the date of payment was insignificant. The prior charge has been indicated therefore at only 3 per cent., since the dollar rate at the time of the payment of the tax, that is on April 25, amounted to 29,200, namely, about fifteen times the average dollar rate for 1922 (1885.78). In many cases, owing to delay in closing the balance sheet and to the consequent delay in paying the taxes, the prior charge was, as a result of the rapid depreciation of currency, much less than 3 per cent. In the case of the person receiving dividends the tax indicated is that which he had to pay as increased prepayments and payment of balance for 1923.

Since there was no proper assessment for income tax on a sliding scale for 1923, the payments of balance for 1923 have been determined according to the taxpayer's capacity to pay on the basis of his gold mark payments in 1923, and in certain cases on the basis of a lavish expenditure.

If, on the basis of the material at its disposal the Finance Office can assume that the taxpayer had a gold mark income of 50,000 or 100,000 marks, a charge of at least 25 per cent. may be allowed for.

If there are really cases of still higher incomes, a charge of 35 per cent. on 500,000 gold marks and of 40 per cent. on 1,000,000 gold marks will be paid. The total charge therefore amounts to 28 per cent. in the case of incomes of 50,000 and 100,000 gold marks derived from dividends paid by German companies; if half of the income is derived from foreign companies half of the prior charge constituted by the corporation tax does not come into consideration and the total charge therefore amounts to 26½ per cent. For incomes of 500,000 gold marks the total charge represents 38 per cent. or 36½ per cent., for 1,000,000 gold marks 43 per cent. or 41½ per cent.

III. For 1924–25.—It is assumed that the dividend for 1924 is distributed to the shareholders. The prior charge indicated is the tax which the company has paid as corporation tax prepayments and payment of balance for 1923.

The example of 50,000 gold marks has been calculated as follows: 1 gold mark was 449 paper marks according to the average rates of exchange of the dollar for 1922. 50,000 gold marks therefore equal 22,450,000 paper marks.

First prepayment (under the Currency Depreciation Law of March 20, 1923) 20 per cent. = 4,490,000 paper marks, paid on May 25 (1 gold mark = 12,190 paper marks) = 369 gold marks.

Second prepayment (under the Law for Increases of July 9–August 11, 1923), 600 times 10 per cent. = 1,347 million paper marks, paid on August 25 (value of the gold mark = 1,120,000) = 1,203 gold marks.

Payment of balance on January 10, 1924 (under Article 1, § 2, of the

Second fiscal emergency Decree) 0.60 gold marks on each 1,000 marks of the 1922 fiscal debt; the 1922 fiscal debt in respect of dividends amounted to 45 per cent. of the sum of 22,450,000 paper marks indicated above, that is, to 10,102,500 paper marks. Consequently the final payment of 0.6 per thousand in gold=6,061 gold marks. The total prior charge therefore amounts to 7,633 gold marks.

In the case of the person receiving the dividend, the only payments demanded are those to be paid as income tax repayments and as tax on fortunes in 1924. 10 per cent. only is first deducted at the source from the revenue from investments as income tax prepayment; this is therefore 5,000 gold marks on 50,000 gold marks. For the tax on fortunes it is assumed that the dividends paid by German companies average 1 per cent. of the quoted value; even this computation must, however, be too high for a great many German companies at the present time.

In the case of foreign companies it is assumed that the dividends amount to 5 per cent. of the quoted value of the share. 50,000 marks in dividends from German companies therefore represent a quoted value of 5 million marks.

For the shareholders' payments in respect of the tax on fortunes this is valued at only half the quoted value, that is, 2½ million marks, since the company itself has to pay a tax on fortunes for which the fortune is assumed to be at least the total quoted value of the shares.

On a total fortune of 2½ million marks the tax on fortunes amounts to 17,500 marks. The provisional charge on an income of 50,000 marks from dividends from German companies is therefore as follows:

	Gold marks
Tax on corporations	7,633
Deduction at the source from revenue from investments	5,000
Tax on fortunes	17,500
Total	30,133

If half the dividends come from a foreign company, the charge in respect of the tax on capital is as follows:

25,000 marks from German companies. Quoted value 2½ millions (1 per cent. interest), half of which is counted, that is, 1,250,000 marks.

25,000 marks from foreign companies. Quoted value 500,000 marks (5 per cent. interest) counted in full, since the company does not pay the tax on fortunes in Germany.

The quoted value used for the tax on fortunes is therefore 1,750,000 marks and the sum paid in respect of the tax 11,375 marks.

As half of the dividends come from foreign companies, the deduction at the source on half the revenue from investments in this case also provisionally does not come into consideration. The Finance Office is, however, entitled to collect prepayments from the taxpayer with due consideration to his requirements. No sum is, however, included in the enclosed table on this account; for, as explained above, the calculations for 1924–25 constitute only provisional tax payments, which represent prepayments on the definite income tax for 1924. For the 1924 income, the taxpayer will still be assessed at the beginning of 1925 and he will then have to make considerable post-payments, which are correspondingly higher in the case of income from foreign dividends from which no deduction at the source has been made in Germany. No sum could be included for post-payments, as the necessary regulations must first be enacted by law during the course of 1924 (in particular the rates of taxation).

Income in Gold Marks	Definitive Charge		Charge in respect of corporation tax and tax on fortunes; *non-recurrent* charge in respect of income tax prepayments 1924–25
	Corporation tax, tax on revenue from capital, income tax 1920–21	Corporation tax, income tax 1923–24	
50,000[1]	27,821	14,000	30,133
50,000[2]	22,577	13,250	17,691
100,000[1]	57,586	28,000	60,266
100,000[2]	47,098	26,500	37,133
500,000[1]	295,707	190,000	313,830
500,000[2]	243,267	182,500	194,415
1,000,000[1]	593,357	430,000	627,660
1,000,000[2]	488,477	415,000	388,830

[1] German companies.

[2] Half from German and half from foreign companies.

IV. THE McKENNA REPORT

REPORT OF THE SECOND COMMITTEE OF EXPERTS

Covering Letter

Dear Mr. Chairman,

I have the honor to present the unanimous Report of the Committee appointed by the Reparation Commission to inquire into the amount of German exported capital and to consider the means of bringing it back to Germany.

In laying before you the result of our labors may I be permitted in the name of the Committee to express the hope that our work may assist in solving the problems involved in the execution of the Treaty of Peace.

I remain,

Yours faithfully,

(Signed) R. McKenna.

The Chairman, Reparation Commission.

In pursuance of a decision of the Reparation Commission of the 30th November, 1923, we were created a committee to consider the means of estimating the amount of German exported capital and of bringing it back to Germany. We were convened in Paris on the 21st January, 1924, and we have held altogether thirty-eight meetings, first in Paris, then in Berlin, and finally again in Paris. We have examined numerous witnesses and have availed ourselves of the services of trained economists, technical advisers and expert accountants. We have also studied the published works on the subject by well-known economists, and each member of the Committee has furnished reports on particular problems.

Our estimates relate to the 31st December, 1923. Later events may, of course, have either increased or decreased the amount of German capital abroad.

In our investigation of the amount of capital owned by Germans in foreign countries, we were confronted by very considerable difficulties. There are many ways by which Germans can acquire capital abroad, but in most cases no precise figures can be given. It is nearly always a matter of estimate, and the utmost we could hope to do with any degree of certainty was to lay down limits between which the actual amount is to be found. The distance which divides these limits marks the want of precision of the material at our disposal.

One method of investigation, to institute an inquiry through bankers and business men in those countries in which German capital is believed to be deposited or invested, was rejected by us at the outset. We have availed ourselves of all information of a public or official character supplied from countries outside Germany, but we were of opinion that it would be neither proper nor useful to request the disclosure of specific transactions which in general would have been entered into under an implied condition of secrecy. Moreover we felt that even though all obtainable information were freely given to us, it must be extremely defective, as much German capital in foreign countries is certain in existing circumstances to be hidden in various ways under assumed names.

The method we have adopted is altogether different. Our first step was to form an estimate of the total value of German capital abroad at the outbreak of war.

Next we considered what was the net reduction in this total at the time of the Armistice. We took into account on one side the balance of trade, advances by Germany to her Allies, loss by seizure and sequestration of property confirmed by the Versailles Treaty, and loss through depreciation of the value of property and securities. On the other side we considered the sales of German securities, the sales of gold, the accumulation of interest, and finally the effect on the trade balance of the imports into Germany from occupied territories. These imports were commodities either requisitioned without payment, or paid for, in the case of Belgium and Poland, largely by marks which remained in the country, and, in Roumania and occupied France, as well as in Belgium and Poland, by local currencies which the German Government caused to be printed and issued for the purpose.

Finally, starting from the basis of the remaining pre-war German assets, we examined in detail the various means by which Germans can have increased or diminished their capital abroad during the period from the Armistice to the close of the year 1923. The reliability of our final estimate depends upon the completeness of our examination of the different elements which make up the total of German foreign acquisitions and of the various ways in which such acquisitions may have been expended.

The chief method by which Germans have acquired foreign assets since the Armistice has been by the sale of mark bank balances. Our estimate of the total sum under this head has been obtained by a procedure founded upon the principle that every foreign sale by a German of a mark bank balance creates at the moment of sale a corresponding holding of a foreign bank balance in Germany. The periodic totals of foreign balances shown in the books of the German banks were disclosed to us; and with the assistance of expert accountants we have been able to ascertain the net proceeds expressed in gold derived from the sale of marks. It is interesting

to note that the foreign assets acquired in this way amounted to between 7 and 8 milliards of gold marks, the whole of which in consequence of the final devaluation of the mark was lost by more than one million foreigners who at one time or another were buyers of mark credits.

This figure is one of the credit factors in estimating the final total.

Other principal sources of German foreign assets have been the sale of goods, securities, real estate, precious metals and mark banknotes; interest accumulations, tourist expenditure in Germany, German holdings in ceded territories in Poland, Danzig, etc., foreign money expended by the allied Armies of Occupation, remittances from Germans abroad, earnings of shipping, railway and canal freights for foreign goods in transit through Germany, insurance profits, etc.

On the other hand, German foreign assets have been expended on the purchase of goods imported, cash payments to the Allies, interest paid on German securities held abroad, German tourist expenditure, etc.

On all these heads of receipt and expenditure, the German statistical records and estimates, official data, bankers' and business reports, and other similar evidence, have been subjected by us to the most critical scrutiny, and their reliability has been tested by our examination of witnesses and inspection of original sources of information. Our investigations and the evidence obtained led us to discard entirely the values of German imports and exports as stated in the official reports, and to revalue all commodities on the basis of the then current world prices with such allowances as the special circumstances of German trade at the time may have rendered necessary.

After a close examination of all the factors which make up the total sum we are of opinion that German capital abroad of every kind, including capital of varying degrees of liquidity and capital invested in participations in foreign companies and firms, and after taking into account all credit and debit items, was at the end of the year 1923 not less than 5.7 milliard gold marks and not more than 7.8 milliard gold marks, and we think that the middle figure of 6¾ milliard gold marks is the approximate total.

We draw special attention to the foreign currency in Germany which, though not included in our valuation of capital held abroad, is so closely akin to a foreign asset that it must not be overlooked. It may indeed be said that this currency, the total of which we estimate at not less than 1 milliard 200 million gold marks, is a German holding in the most liquid form for conversion into foreign assets.

On the other hand, on a broad view of German financial capacity, the value of the property in Germany held by foreigners should not be left out of account. The annual yield from this property, whether in the form of rent, interest or dividends, is at present inconsiderable and may at any

time become subject to special taxation, particularly in the case of rent in respect of real estate purchased at the low prices current in recent years. We estimate, after very close study of the question, that the real estate and securities owned in Germany by foreigners represent a value of from 1 to 1½ milliard gold marks.

The Committee have thought it desirable to give in an annex to this report additional information in respect of their estimates of German assets abroad in 1914 as well as of the principal credit and debit factors. both during and since the war, that have gone to make up the final total of German capital abroad.

The second part of our inquiry was to investigate the means of bringing exported capital back to Germany.

The so-called flight of capital in this instance was in the main the result of the usual factors. It arose principally from the failure of the Government to bring its budget into proper relation, and, as a corollary of such failure, from the raising of large loans and the direct issue of paper money. Secondly, it was due to the action of speculators and timid investors who sold their marks against the currency of other countries, while the exporters of goods retained abroad all that was possible of the proceeds of their sales. In the particular case under inquiry, however, the flight of capital was accentuated by the attitude of the people of Germany towards payments to her war creditors, and was marked by new and ingenious devices and schemes for evading restrictive legislation and for cloaking the real ownership of foreign balances.

The failure of the methods employed, both old and new, demonstrates the final ineffectiveness of restrictive legislation when successful evasion is so richly rewarded. Neither legal enactment nor severe penalties resulted in disclosure of assets abroad or hampered the flight of capital. We feel that this would have been true whether the Government had or had not used its best endeavors to enforce the laws and regulations.

In our opinion the only way to prevent the exodus of capital from Germany and to encourage its return is to eradicate the cause of the outward movement. Inflation must be permanently stopped. If the issue of currency is strictly confined within the true limits of national requirements on a stable basis of value, the German with capital abroad will feel assured that he will suffer no loss in bringing it home; the speculator can no longer look for a profit from the sale of marks. We have already seen in the case of Austria how, when the currency is fairly stabilized, the necessities of foreign trade tend to bring back existing foreign balances. Restrictive legislation, which in the main has proved futile in preventing the export of capital, becomes superfluous the moment there is no longer any inducement to evade the law. It is indeed to be

feared that laws purporting to compel the return of capital would have the reverse effect to that which might be wished.

The method of securing a currency in Germany capable of maintaining a sufficiently stable international value covers the whole question of budgetary equilibrium and the establishment of a bank of issue on a sound basis. These matters, which fall outside the scope of our inquiry, have been referred by the Reparation Commission to another Committee whose conclusions we have the advantage of knowing. If effect is given to their recommendations, we think that a considerable part of the German assets now in foreign countries will return in the ordinary course of trade.

While we are of opinion that special legislation to prevent the export of capital or compel its return is not required when a country's finance is on a stable basis, we recognize that in the case of Germany a period of transition must necessarily ensue before stability can be obtained and confidence restored. We suggest that during this period an amnesty should be granted for a limited time from the penalties imposed by existing enactments and that special terms be offered for subscriptions to Government loans made in foreign currencies. Well-conceived measures of this kind would be helpful in hastening the return of capital and the final restoration of financial equilibrium in Germany, conditions which are essential to the payment of reparation.

We desire to express our sincere thanks to the officers of the Reparation Commission, and to the economists, statisticians and expert accountants who have aided us, for whose valuable assistance we are greatly indebted.

April 9th, 1924.

Reginald McKenna, *Chairman.*
Henry M. Robinson.
André Laurent-Atthalin.
Mario Alberti.
Albert-E. Janssen.

ANNEX

Summary

I. Assets abroad in 1914.

II. Period of the War:

(*a*) Surplus of imports and Germany's advances to her Allies;
(*b*) Depreciation of pre-war foreign assets; Sequestration and liquidation measures;
(*c*) Profits realized by Germany in Occupied Territories;
(*d*) Sale of gold and German securities;
(*e*) Return from German assets abroad.

III. Post-war period:

(*a*) Surplus of imports and cash payments made by Germany under the Peace Treaty;
(*b*) Sales to foreigners of mark credits and banknotes;
(*c*) Sales of gold;
(*d*) Sales of German real property and German securities;
(*e*) Expenditure by foreigners traveling in Germany and by Germans traveling abroad;
(*f*) Expenditure by the Armies of Occupation;
(*g*) Earnings from shipping, insurance, transit, etc.;
(*h*) Income from German investments abroad and from foreign investments in Germany; remittances made by Germans residing abroad;
(*i*) German private property in ceded territories;
(*j*) Foreign banknotes in Germany.

I. Assets Abroad in 1914

The value of German assets abroad in 1914 has been estimated by different economists at sums varying between 20 and 35 milliard gold marks. Besides these unofficial estimates two estimates of an official nature, as well as a census, have been made by the German Government. The earlier of these two official estimates is that made in 1905 by the Imperial Admiralty; the later one was supplied by the German Government in 1924 in reply to a question raised by the Second Committee of Experts. The census, which only covered securities, was made by the German Government during the war in August, 1916.

In the question put to the German Government the Committee not only asked for an estimate of the foreign assets held by German nationals in 1914, but also requested it to submit its comments on the various estimates already made by German economists.

All these documents—estimates of German economists, and those of neutral, Allied and Associated countries, official estimates and census, and the replies of the German Government—have been examined and compared. Taking into account all the factors of valuation, the Committee has come to the conclusion that the figure of 28 milliard gold marks may be accepted as representing the value of German assets abroad at the time of the declaration of war, it being understood that this figure of 28 milliards comprises only the assets abroad belonging to German nationals residing in Germany and not those belonging to German nationals residing abroad. In this estimate securities have been taken at their face value in gold marks.

II. Period of the War

(a) *Surplus of Imports and Germany's Advances to her Allies*

The difficulty encountered by Germany in exporting her goods during the war, as well as her persistent endeavors to increase her imports by every possible means, in order to provide for the requirements of her armies, naturally produced a surplus of imports, considerably in excess of the figures of the normal pre-war deficit. To this deficit in Germany's foreign trade balance must be added the sums advanced by Germany to her Allies to enable them to pay for their imports, for which she received no corresponding return. The figure indicated for these two items may be considered to be reliable and amounts to an aggregate sum of 15.2 milliard gold marks, subject to the modifications referred to in paragraph (c).

(b) *Depreciation of Pre-war Foreign Assets; Sequestration and Liquidation Measures*

Various estimates of the reduction in German assets abroad during the war as a result of depreciation have been made by several economists, whose figures are generally based on an estimated total of from 20 to 25 milliard gold marks for German assets in 1914. Their estimates seem too low, if we take as a basis the figure of 28 milliards adopted by the Committee for German assets abroad in 1914. This impression is moreover confirmed by information which the Committee has obtained by its own investigation.

It is impossible to adopt a definite figure in determining the value of the assets seized and liquidated in the Allied and Associated countries. On the basis of information obtained by the Committee from the Governments of the Allied and Associated Powers as well as from Germany, the Committee has been able to estimate at approximately 16.1 milliard gold marks the reduction in German assets abroad during the war, as a result of depreciation and liquidation and sequestration measures. In adopting this figure no allowance has been made for the fact that certain German assets abroad may have been utilized to cover the payment of imports, nor for the fact that German assets abroad may have increased owing to the accumulation of the interest accruing on these assets. These several items are discussed elsewhere. The above figure therefore represents a net reduction in German assets abroad for which Germany during the war period received no return. These assets underwent a further decrease in value during the period following hostilities, which decrease was taken into account.

Lastly, the Committee is of opinion that both during and since the war, the category of assets in neutral countries has likewise undergone a reduction in value, and that in particular the greater part of such securities held

by Germans has no longer a value equivalent to their face value, even taking into account the effect of the decline in the value of gold.

(c) *Profits Realized by Germany in Occupied Territories*

An examination of German economic measures taken in Belgium during the war, to which the attention of the Committee was called, suggested that substantial profits had accrued to Germany from the exploitation of occupied territories. Consequently, the Committee has made a careful study covering not only German operations in Belgium and Northern France, but also those in Poland and Roumania.

No attention has been paid to the purely military aspects of these operations, such as, for instance, requisitions intended to provide for the partial subsistence of the German occupying troops. Quite apart from such matters, however, it was found that the profits realized by Germany by requisitions and by other methods in occupied territories are closely connected with the deficit of the German balance of trade. With the help of German official documents, in particular reports by the military administration drawn up during the war and German memoranda estimating the value of war damages, the Committee has ascertained that the profits realized by Germany were principally obtained as follows:

Germany obtained in occupied territories considerable quantities of commodities which, through the operation of centralized importing companies specially created for this purpose, were transported to Germany for internal consumption. Most of these goods were either not paid for at all, or were paid for in paper marks which were subsequently left in the country and amounted in the case of Belgium to 6 milliard paper marks, or were purchased through the medium of issues of local paper currency. The special object of such issues, according to a statement by the German Staff, was to enable Germany and her Allies to receive goods from occupied territories free of charge during the whole period of hostilities.

By requisition or in exchange for paper marks or local currency, Germany also obtained considerable quantities of the currency of invaded countries. Thus in the north of France the German military authorities imposed on towns fines and levies for which payment was required in German money, gold coin or notes of the Bank of France.

Finally, foreign assets were acquired by Germany, especially in Belgium and France, notably by means of sequestration of securities, coupons and other credits, and these, like the banknotes mentioned above, served in part to pay for imports from neighboring neutral countries.

It must also be pointed out that when the German Coal Centrale in Belgium issued export licenses for coal for Holland, Switzerland or Sweden, the German authority kept for itself the foreign currency thus obtained, and forced the mines to accept paper marks.

The Committee has adopted the figure of from 5.7 to 6 milliard gold marks as corresponding to that portion of the profits derived from this exploitation of Belgium, Northern France, Poland, Lithuania, Roumania, etc., representing imports for which no payment was made and which in consequence had not been allowed for in her balance of accounts.

(d) *Sale of Gold and German Securities*

The sale of gold and securities was the principal means whereby Germany paid for her imports during the war. The export of gold, which took place mainly during the early years of the war, reached a total amount of 1 milliard gold marks.

As regards German securities, widely diverging estimates have been made of the amounts sold. In our opinion the total figure is not far from 1 milliard gold marks.

(e) *Return from German Assets Abroad*

The revenue which Germany derived from her assets abroad was very considerably diminished immediately after the declaration of war and further reductions occurred during the period of hostilities.

It should indeed be noted that interest ceased to be paid on the assets held by Germany in countries with which she was at war. Some of these assets were sold during the war and the depreciation of others became very marked towards the end.

On the other hand, the industrial securities, particularly those of neutral countries, continued to pay interest at rates frequently higher than before the war.

While the Committee has been unable to determine exactly the variations for each year of the war in the revenue derived from German assets abroad, it has at least been able to make an estimate which may be taken as very nearly accurate.

III. Post-war Period

(a) *Surplus of Imports and Cash Payments made by Germany under the Peace Treaty*

One of the main causes of the reduction of German assets abroad during the postwar period arose from the necessity for Germany to cover the deficit in her trade balance and to meet the cash payments which had to be made to the Allies under the Treaty of Versailles. These two items together amount to between 9 and 10 milliard gold marks.

As already stated in the report, the figures given in the official German foreign trade statistics are quite inaccurate for certain periods. This observation applies particularly to the figures originally published.

For this reason, it was necessary to revise completely the balance given for every year. Taking into account the various factors entering into the calculation, the Committee is of opinion that this revision has made it possible to reach a figure more nearly equal to the actual excess of imports than had been the case in previous reports dealing with this question. The fixing of the amount of the deficit in the trade balance is of true importance, since any valuation that is to be made of German assets remaining abroad largely depends on the figure finally adopted for that deficit.

The cash payments made by Germany to the Allies—to the Reparation Commission, under the Reparation Recovery Act, payments to the Clearing Office, etc.—do not give rise to dispute.

(b) *Sale to Foreigners of Mark Credits and Banknotes*

Germany has acquired foreign assets in large volume since the Armistice through opening credit accounts in her banks for the benefit of foreigners. These credits were paid for by the foreigners in the money or credits of other countries, and as they underwent a constant shrinkage in real value through the depreciating value of the mark, German economy profited largely from the transactions. The Committee made a careful study of the values so acquired by an investigation, with the aid of expert accountants, of the mark credit balances on foreign account in the principal banks of Germany during the postwar years.

It was found that there had been during this five-year period more than a million individual accounts of this kind. In most cases the mark credits of these accounts had not been immediately utilized and had undergone a process of shrinkage through the depreciation of mark values that amounted to a veritable evaporation.

The work of the expert accountants was directed to determine as nearly as possible the aggregate amount of the shrinkages in these very numerous accounts that was due to the depreciation of the value of the mark. With this end in view the leading banks in Germany were asked to transcribe from their books the data showing the credit balances and the amounts of debits in the accounts of all foreigners at the close of each month from the end of 1918 to the end of 1923.

After the sums indicated had been converted to gold equivalents at the current rate of exchange, it was possible to draw close inferences as to the total gains accruing to German economy as a whole. The data furnished by the banks were submitted to careful checking by the expert accountants, and it was found that they had been correctly compiled.

Credits in German marks were purchased by the citizens of a great many nations, but the largest amounts were taken by the citizens of a relatively restricted group of countries.

The methods used in determining the value of the assets acquired by the German banks in this way were subjected to an interesting check which consisted of taking a single account of a foreigner who had engaged in speculative operations on a considerable scale, and converting the figures of the transactions to a gold basis for every day on which any debit or credit entry was recorded. The results indicated that there was no tendency for this detailed method of conversion to yield results materially different from those found by the more general mass methods that it was necessary to employ in computing the figures for Germany as a whole.

When the whole inquiry, which was of considerable length, had been completed it was found that Germany had profited by the sale of mark credits by an amount of from 7 to 8 milliards of gold marks. In addition the sale of paper marks in foreign countries had resulted in profits amounting to from 600 to 700 millions of gold marks, or a total from these two sources of 7.6 to 8.7 milliards of gold marks.

(c) *Sales of Gold*

German official statistics record sales abroad by Germany principally in the years 1919–21 and 1923 of gold to a total amount of 1½ milliard gold marks. The accuracy of these figures is not disputed.

(d) *Sales of German Real Property and German Securities*

During the period characterized by the rapid depreciation of the mark, sales of real property to foreigners reached an unwonted development in Germany.

In estimating the proceeds of such sales, the Committee had before it various statistics indicating in detail the number and amount of sales of real property to foreigners since the war in some of the principal towns of Germany, and also in districts of varying economic character.

As regards securities, Germany was able during the first part of the postwar period to market some of her securities abroad, but as soon as her financial position became more uncertain, most of these transactions were suspended.

In the aggregate, the Committee considers that sales of German real property and securities to foreigners amounted to about 1½ milliard gold marks.

(e) *Expenditure by Foreigners Traveling in Germany and by Germans Traveling Abroad*

During the five years which have elapsed since the Armistice, considerable sums have been spent in Germany by large numbers of foreigners who have traveled and lived in the country. Our estimate of the expend-

iture by these travelers was facilitated by the official statistics kept by the largest German towns and by the special report on the subject supplied by the German Government. The Committee was able to obtain a fairly exact idea of the number of foreigners who came to Germany during the period in question, the average length of their stay and the daily expenditure of each traveler.

As against this, numerous German travelers belonging mostly to the wealthier classes have stayed in foreign countries, especially in the last two or three years. Their expenditure has to be deducted from the expenditure by foreigners in Germany referred to above, and very considerably reduces the amount of the German assets realized from that source.

(f) *Expenditure by Armies of Occupation*

During the postwar period, a certain sum has been realized by Germany through the expenditure in foreign currency, or in marks bought with foreign currency, by the troops occupying German territory.

Each of the Governments having or having had armies of occupation in Germany has supplied the Committee with a detailed estimate of the expenditure made by the officers and men or by the various army services. These estimates were checked in several ways by a series of calculations relating to each army's different methods. The results of these different calculations have been combined.

(g) *Earnings from Shipping, Insurance, Transit, etc.*

Earnings from shipping, insurance, commissions, transit, were an important source of German income prior to 1914, but during the war such earnings in great measure disappeared. In the five years 1919–23 some of the lost ground has been regained, particularly in the field of shipping and insurance, and the Committee has taken this item into account.

(h) *Income from German Investments Abroad and Foreign Investments in Germany*

Remittances made by Germans Residing Abroad

The total amount of the income produced by German assets abroad since 1919 is of course substantially below that produced by German assets abroad before the war. The assets held abroad by Germany since the war represent indeed only a small and for some part unproductive fraction of her pre-war holdings. It is true, on the other hand, that the payments which Germany has had to make since 1919 in respect of German securities held by foreigners have been inconsiderable. After a careful study of the question, the Committee came to the conclusion that a set-off of the two items—income from German investments abroad

and income from foreign investments in Germany—resulted in a small balance in Germany's favor for the whole of the post-war period.

The remittances sent to Germany by German nationals residing abroad and German connections and sympathizers amount to a considerable figure in Germany's favor.

(i) *German Private Property in Ceded Territories*

Most of the valuations of German property abroad have taken little or no account of the value of German private property in the ceded territories of Silesia, Posen, Danzig, etc.

These properties are included in our own estimate in so far as, according to the definition adopted by the Committee, they are owned by Germans residing in Germany. Although it is very difficult to determine with any precision the extent of these properties, the Committee considered that it should not exclude from its valuation certain industrial assets, particularly those in Upper Silesia.

(j) *Foreign Banknotes in Germany*

There is in Germany a large quantity of foreign bank notes (dollars, florins, Scandinavian crowns, Swiss francs, pounds sterling, and more especially in the occupied territory, Belgian and French francs). The exceptional plight of the German mark has influenced Germans in acquiring stable currencies wherever possible and on a large scale. These foreign notes have remained in the country instead of finding their way abroad again through the normal channel of trade, as would have been the case in ordinary circumstances.

Various estimates of the total amount of such notes were made in Germany, particularly towards the end of 1923. The Committee has compared the different estimates with the information which it collected in Germany and other countries. In its opinion, the value of the foreign notes existing in Germany at the end of 1923 amounted to about 1.2 milliard gold marks.

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World Peace Foundation

Vol. VI 1923 No. 6

The Work of the Permanent Court of International Justice during its First Two Years

By MANLEY O. HUDSON
Bemis Professor of International Law
at the Harvard Law School

Published Bimonthly by the
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World Peace Foundation

Boston, Massachusetts

*FOUNDED IN 1910 BY EDWIN GINN

The corporation is constituted for the purpose of educating the people of all nations to a full knowledge of the waste and destructiveness of war, its evil effects on present social conditions and on the well-being of future generations, and to promote international justice and the brotherhood of man; and, generally, by every practical means to promote peace and good will among all mankind.—*By-laws of the Corporation.*

It is to this patient and thorough work of education, through the school, the college, the church, the press, the pamphlet and the book, that the World Peace Foundation addresses itself.—Edwin Ginn.

The idea of force can not at once be eradicated. It is useless to believe that the nations can be persuaded to disband their present armies and dismantle their present navies, trusting in each other or in the Hague Tribunal to settle any possible differences between them, unless, first, some substitute for the existing forces is provided and demonstrated by experience to be adequate to protect the rights, dignity and territory of the respective nations. My own belief is that the idea which underlies the movement for the Hague Court can be developed so that the nations can be persuaded each to contribute a small percentage of their military forces at sea and on land to form an *International Guard or Police Force.*—Edwin Ginn.

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STATES WHICH HAVE SIGNED THE PROTOCOL

OF THE

PERMANENT COURT OF INTERNATIONAL JUSTICE[1]

Albania
Australia
Austria
Belgium
Bolivia
Brazil
British Empire
Bulgaria
Canada
Chile
China
Colombia
Costa Rica
Cuba
Czechoslovakia
Denmark
Esthonia
Finland
Franee
Greece
Haiti
Hungary
India
Italy
Japan
Latvia
Liberia
Lithuania
Luxemburg
Netherlands
New Zealand
Norway
Panama
Paraguay
Persia
Poland
Portugal
Rumania
Salvador
Serb-Croat-Slovene State
Siam
South Africa, Union of
Spain
Sweden
Switzerland
Uruguay
Venezuela

Total: 47

[1] Prior to May 1, 1924.

JUDGES OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE[1]

Elected September 14–15, 1921, to serve nine years

Judge	*National of*
Rafæl ALTAMIRA y Crevea	Spain
Dionisio ANZILOTTI	Italy
Epitacio da Silva PESSOA[2]	Brazil
Antonio Sánchez de BUSTAMANTE	Cuba
Robert Bannatyne Viscount FINLAY	Great Britain
Hans Max HUBER	Switzerland
Bernard Cornelis Johannes LODER, President	Netherlands
John Bassett MOORE	United States
Didrik Galtrup Gjedde NYHOLM	Denmark
Yorozu ODA	Japan
Charles André WEISS, Vice-President	France

Deputy Judges

Frederik Valdemar Nikolai BEICHMANN	Norway
Mikhailo JOVANOVICH	Serb-Croat-Slovene State
Demitrie NEGULESCO	Rumania
WANG Ch'ung-hui	China

Registrar—M. Åke Hammarskjöld (Sweden)

[1] On May 1, 1924.

[2] Elected September 10, 1923, to succeed Ruy Barbosa (d. March 1, 1923).

DATES IN THE HISTORY OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

1. February 13, 1920—The Council of the League of Nations sets up a Committee of Jurists to draft the Statute of a Court.
2. June 16, 1920—The Committee of Jurists meets at The Hague.
3. August 5, 1920—Draft of the Statute submitted by the Committee of Jurists to the Council.
4. December 13, 1920—Draft Statute as amended approved by the First Assembly of the League of Nations.
5. December 16, 1920—Statute annexed to a special treaty, called the Protocol of Signature, signed by forty-seven states.
6. September 16, 1921—The first election of Judges completed.
7. January 30, 1922—The Court meets at The Hague for its first session.
8. March 24, 1922—Rules of Court promulgated.
9. May 12, 1922—The Court is opened to all states in the world.
10. June 15, 1922—The Court meets at The Hague for its second session, and hands down three advisory opinions.
11. January 8, 1923—The Court meets at The Hague for its third session and hands down a fourth advisory opinion.
12. February 24, 1923—President Harding asks the Senate to advise and consent to the adhesion to the Court Protocol by the United States.
13. June 15, 1923—The Court meets at The Hague for its fourth session and hands down three advisory opinions and one judgment.
14. September 10, 1923—Judge Pessoa of Brazil was elected to fill the vacancy caused by Judge Barbosa's death.
15. November 18, 1923—The Court meets at The Hague for its fifth session, and hands down one advisory opinion.
16. December 6, 1923—President Coolidge commends the proposed adhesion by the United States to the Protocol of Signature to the Court to the favorable consideration of the Senate.
17. June 15, 1924—The Court will meet at The Hague for its sixth session.

THE WORK OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE DURING ITS FIRST TWO YEARS[1]

By Manley O. Hudson

BEMIS PROFESSOR OF INTERNATIONAL LAW AT THE HARVARD LAW SCHOOL

First Advisory Opinion of the Permanent Court of International Justice.—Nomination of Delegates to the International Labor Conference[2]

A member of the International Labor Organization is not bound to consult the largest employers' or workers' organization, in selecting its delegates to the International Labor Conference, where other organizations total more members.

On May 12, 1922, the Council of the League of Nations adopted a resolution requesting the Permanent Court of International Justice to give an advisory opinion on the following question: "Was the Workers' Delegate for the Netherlands at the third session of the International Labor Conference nominated in accordance with the provisions of paragraph 3 of Article 389 of the Treaty of Versailles?" The question came before the Court at its first regular session on June 15, 1922. Briefs were presented to the Court on behalf of the Netherlands Government, the International Labor Office, and the Netherlands General Confederation of Trades Unions. Oral arguments were heard on behalf of the British and Netherlands Governments, the International Federation of Trades Unions, the International Federation of Christian Trades Unions, and the International Labor Office.

[1] Reprinted from articles in the American Bar Association Journal for February, March and April, 1924.

[2] Reported in Publications of the Permanent Court of International Justice, Series B, No. 1.

The publications of the Permanent Court of International Justice may be obtained from the World Peace Foundation, 40 Mt. Vernon St., Boston, Mass.

At the third session of the International Labor Conference, held at Geneva from October 25 to November 18, 1921, a protest was made against the acceptance by the Conference of the credentials of the workers' delegate named by the Netherlands Government. At previous sessions of the Conference, the workers' delegate named by the Netherlands Government had been nominated in agreement with the Netherlands Confederation of Trades Unions. But the workers' delegate to the third session in 1921 was nominated in agreement with the Confederation of Catholic Trades Unions, the Confederation of Christian Trades Unions, and the Netherlands General Confederation of Trades Unions, though not in agreement with the Netherlands Confederation of Trade Unions. The last-named organization had a membership of 218,596 trade unionists; the other organizations had a total membership of 282,455 trade unionists, though no one had a membership in excess of 155,642.

Article 389 of the Treaty of Versailles requires that non-government delegates to the International Labor Conference be "chosen in agreement with the industrial organizations, if such organizations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries." On October 22, 1921, the Netherlands Confederation of Trades Unions protested to the International Labor Office that the Netherlands Government had not fulfilled this requirement. The International Labor Conference decided to admit the delegate nominated by the Netherlands Government, in spite of this protest. But at the same time the Conference adopted a resolution calling upon the Governing Body of the International Labor Office to request the Council of the League of Nations to obtain from the Permanent Court of International Justice an opinion as to the proper interpretation of Article 389. The Council of the League of Nations therefore acted at the suggestion of the Governing Body in requesting the opinion.

The Court unanimously concluded that the Netherlands Government's nomination had complied with Article 389 of the Treaty of Versailles. The main ground of the opinion was that in a country where there are several organizations of workers or employers, all of these organizations may be taken into consideration in the nomination of a workers' or employers' delegate, and not

merely that one which has the largest membership, even though the one may be the "most representative."

This opinion was communicated to the Council of the League of Nations and transmitted by the Council to the Director of the International Labor Office. It constitutes a distinct clarification of the Labor Part of the Peace Treaties, and in the future it will greatly assist the governments in nominating non-government delegates to the International Labor Conference.

Second Advisory Opinion of the Permanent Court of International Justice.—Agricultural Labor and the International Labor Organization[1]

The competence of the International Labor Organization extends to the conditions of labor of persons employed in agriculture.

On May 12, 1922, the Council of the League of Nations adopted a resolution requesting the Permanent Court of International Justice to give an advisory opinion on the following question: "Does the competence of the International Labor Organization extend to the international regulation of the conditions of labor of persons employed in agriculture?" The question came before the Court at its first regular session on June 15, 1922. Oral statements were made before the Court on behalf of the British, French, Portuguese and Hungarian Governments, and on behalf of the International Labor Office, the International Agricultural Commission and the International Federation of Trades Unions.

At the first session of the International Labor Conference in Washington, in 1919, it had been decided to place on the agenda of a future session the subject of agricultural labor. At the third session in 1921, three items relating to agricultural labor were included in the agenda. The question of competence was raised before the Conference by the French Government. The International Labor Conference declared itself competent on October 27, 1921, by a vote of 74 to 20. Later the Conference adopted several measures dealing with the protection of agricul-

[1] Reported in Publications of the Permanent Court of International Justice, Series B, No. 2.

tural workers. It was the French Government which brought the matter to the Council of the League of Nations in 1922, and this was done without first raising the question in the Governing Body of the International Labor Office.

On August 12, 1922, the Court decided to reply to the Council of the League of Nations that the competence of the International Labor Organization does extend to international regulation of the conditions of persons employed in agriculture. A majority of the judges found the language of the Treaty of Versailles free from any ambiguity on this point. It was said that "every argument used for the exclusion of agriculture might with equal force be used for the exclusion of navigation and fisheries."

Judge Weiss (France) and Deputy-Judge Negulesco (Rumania) declared that they were unable to concur in the opinion given by the Court.

The opinion was duly transmitted to the Council of the League of Nations and by the Council to the French Government.

Third Advisory Opinion of the Permanent Court of International Justice.—Agricultural Production and the International Labor Organization[1]

The competence of the International Labor Organization extends to agricultural production only in so far as conditions of labor are concerned.

On July 18, 1922, the Council of the League of Nations adopted a resolution requesting the Permanent Court of International Justice to give an advisory opinion on the following question: "Does examination of proposals for the organization and development of methods of agricultural production, and of other questions of a like nature, fall within the competence of the International Labor Organization?" The Court was in session at the time this resolution was adopted, and was duly notified of the request. Arguments were heard on behalf of the French Government and the International Labor Office.

The question had been first raised in the Council of the League of Nations by a letter of the French Government of June 13, 1922.

[1] Reported in Publications of the Permanent Court of International Justice, Series B, No. 3.

The Director of the International Labor Office stated that the International Labor Organization did not claim to have competence as to agricultural production. Negotiations between the International Labor Office and the International Institute of Agriculture had brought a common view to the two organizations as to the proper delimitation of their respective spheres of action.

On August 12, 1922, the Permanent Court of International Justice expressed the unanimous opinion that while the organization and development of "means of production" had not been included in the sphere of the International Labor Organization, it was not necessary that the Organization "totally exclude from its consideration the effect upon production of measures which it may seek to promote for the benefit of the workers." It was made clear that "the consideration of methods of organizing and developing production from the economic point of view is in itself alien to the sphere of activity marked out for the International Labor Organization by Part XIII of the Treaty of Versailles."

This opinion was duly communicated to the Council of the League of Nations and by the Council to the French Government. With the two preceding opinions, it has assisted the Labor Organization to chart its course, and has thus contributed to the easier co-operation of the nations engaged in considering and adopting uniform labor legislation.

Fourth Advisory Opinion of the Permanent Court of International Justice.—Nature of Dispute About Nationality Decrees[1]

The British-French dispute over nationality decrees in Tunis and Morocco is not by international law solely a matter of domestic jurisdiction within paragraph 8 of Article 15 of the Covenant, though nationality questions in general fall within a state's domestic jurisdiction.

On October 4, 1922, the Council of the League of Nations addressed itself to the following item which had been placed on its agenda at the request of the British Government on August 11,

[1] Reported in the Publications of the Permanent Court of International Justice, Series B, No. 4.

1922: "Dispute between France and Great Britain as to the nationality decrees issued in Tunis and Morocco (French Zone) on November 8, 1921, and their application to British subjects, the French government having refused to submit the legal questions involved to arbitration." The Council took note of "friendly conversations" which had taken place between representatives of the British and French Governments, and pursuant to an agreement between the parties, adopted the following resolution:

(*a*) The Council decides to refer to the Permanent Court of International Justice, for its opinion, the question whether the dispute referred to above is or is not by international law solely a matter of domestic jurisdiction (Article 15, paragraph 8, of the Covenant);

(*b*) And it requests the two Governments to bring this matter before the Permanent Court of International Justice, and to arrange with the Court with regard to the date on which the question can be heard and with regard to the procedure to be followed;

(*c*) Furthermore, the Council takes note that the two Governments have agreed that, if the opinion of the Court upon the above question is that it is not solely a matter of domestic jurisdiction, the whole dispute will be referred to arbitration or to judicial settlement under conditions to be agreed between the Governments.

On October 4, 1922, the Secretary-General of the League of Nations transmitted to the Registrar of the Permanent Court of International Justice a copy of the above resolution "for the information of the Permanent Court of International Justice." This was not treated as a request for an advisory opinion under Article 72 of the Rules of Court, but such a request was sent by the Secretary-General on November 6, 1922. The matter was before the Court as a request for an advisory opinion, although at various stages in the proceedings it was referred to by counsel as if Great Britain and France were parties before the Court in a dispute between them.

The arrangements for calling an extraordinary session of the Court were made by the President with the aid of suggestions from the British and French Governments. The two Governments fixed upon November 25, 1922, as the date for the submission of cases, and December 23, 1922, as the date for the submission of counter-cases. When the Court met in extraordinary session to consider the matter on January 8, the British Government

was represented by Mr. George Mounsey, as Agent, and by the Right Hon. Sir Douglas Hogg, K.C., M.P., His Britannic Majesty's Attorney-General, and the Right Hon. Sir Ernest Pollock, Bart., K.B.E., K.C., M.P., as Counsel. The French Government was represented by M. Mérillon as Agent and Professor de Lapradelle as Agent-Adjoint. Each Government submitted a case and a counter case, and the Court also heard oral arguments from both. The arguments before the Court consumed five days, and during the extraordinary session January 8 to February 7, the Court held twenty meetings.

The dispute had arisen as a consequence of the promulgation by the French Government of decrees converting certain British subjects in Tunis and Morocco (French zone) into French citizens, with the consequence that the French Government began to enforce a liability for military service in the French army. Extended negotiations between the British and French Governments had been conducted before the original communication of the question to the Council of the League of Nations. In these negotiations, Great Britain had relied upon various treaties applying to the French protectorates over Tunis and Morocco, especially the Anglo-French arrangement of September 18, 1897, containing a most-favored-nation clause. But the British insistence had failed to produce any modification in the French decrees, and the French Government had contended throughout that the matter was not open to settlement by diplomatic negotiation.

The argument before the Court was addressed to the single question of the nature of the dispute, and the Court very conscientiously confined itself to the limits of that question. The British Government contended that the existence and abrogation of various treaties were involved, as well as the construction of the terms of such treaties, with the result that the question must be one of an international nature. The French Government contended on the other hand, that "the sovereign right of a nation to legislate upon nationality questions within its own territory governs the situation in Tunis and Morocco under French protectorate as in France itself." It was insisted that the French protectorates in Tunis and Morocco demanded the "progressive assimilation of the customs and laws of the protectorate to those of the protecting country." France refused to admit that

there was any limit on her power in this respect as a result of any applicable international engagement.

On February 7, 1923, the Court handed down a unanimous opinion holding that the dispute "is not, by international law, solely a matter of domestic jurisdiction (Article 15, paragraph 8 of the Covenant)." In the first place, it was held that the language of the Covenant was not to be given "an extensive interpretation." And the following passage from the opinion of the Court seems to indicate a due regard for the influence which its pronouncements are likely to have on future conduct:

> The question whether a certain matter is or is not solely within the jurisdiction of a state is an essentially relative question; it depends upon the development of international relations. Thus, in the present state of international law, questions of nationality are, in the opinion of the Court, in principle within this reserved domain.

It was clearly held that a dispute does not achieve an international character merely as a consequence of its being brought before the Council of the League of Nations, nor as a consequence of appeals by a party to the dispute to engagements of an international character. The Court found the Aaland Islands case authority for this proposition. The French protectorates of Tunis and Morocco were examined in great detail, and it was concluded that while a state possesses exclusive jurisdiction in regard to nationality questions in its own territory, it is a question of international law whether such a jurisdiction extends over protected territory as well. The French Government had contended that certain treaties relied upon by Great Britain had lapsed as a result of the principle of *rebus sic stantibus*. This was held by the Court to be a question of international law. The effect of British declarations in the past with regard to Tunis was also found to be involved, and this was clearly a question of international law. Great Britain's reliance on the most-favored-nation clause in the Anglo-French arrangement of September 18, 1897, had also raised a question of international law.

It is notable that the French judge on the Court, Judge Weiss, concurred in the opinion that for these numerous reasons the dispute was not by international law solely a matter of domestic jurisdiction.

When the opinion was announced on February 7, the Agent for the French Government immediately declared that its conclusions were accepted by the French Government and that the French Government desired the case to be submitted on its merits to the Permanent Court of International Justice. This later proposal was not immediately agreed to by the British Government, however. When the Court again met on June 15, 1923, the French and British Governments informed the President of an amicable arrangement concluded between them on May 24, the result of which was to compromise the matter in such a way as to call for no further proceedings before the Court. The French Government had agreed to permit certain British nationals to decline French nationality, on the understanding that the privilege of declination did not extend to succeeding generations. It was stated in the arrangement that neither government would abandon its point of view, nor would the arrangement itself form a precedent for the future. The differences between the Governments, therefore, having lost their practical importance, did not call for further proceedings before the Permanent Court of International Justice.

Fifth Advisory Opinion of the Permanent Court of International Justice—Dispute between Finland and Russia[1]

Where an advisory opinion on the legal effect of treaty provisions would involve a prejudging of a dispute with reference to the execution of such treaty provisions, the Court will not give such an advisory opinion unless both parties submit to the Court's jurisdiction.

On April 21, 1923, the Council of the League of Nations adopted a resolution requesting the Permanent Court of International Justice to give an advisory opinion on the following question: "Do Articles 10 and 11 of the Treaty of Peace between Finland and Russia, signed at Dorpat, on October 14th, 1920, and the annexed Declaration of the Russian Delegation regarding the autonomy of Eastern Carelia, constitute engagements of an international character which place Russia under an obligation

[1]Reported in Publications of the Permanent Court of International Justice, Series B, No. 1.

to Finland as to the carrying out of the provisions contained therein?"

The question came before the Court at its fourth session which began on June 15, 1923. Notice of the request had been circulated as required by Article 73 of the Rules of Court, and by special decision notice was sent to the Soviet Government of Russia. Various documents were submitted to the Court by the Council and by Finland, and a representative of the Finnish Government was heard in oral argument. The Russian People's Commissary for Foreign Affairs, M. Tchitcherin, sent the Court a long telegram stating that his government found it "impossible to take any part in the proceedings" which it regarded as "without legal value either in substance or in form."

In its opinion announced on July 23, 1923, the Court found that an "acute controversy" existed between Finland and Russia with regard to the Declaration which had been made at Dorpat concerning Eastern Carelia. "The Finnish Government maintain that it forms part of the contract between the two countries and that the Treaty was signed on the terms that the Declaration was as binding as the Treaty itself. The Soviet Government maintain that the Declaration was not by way of contract, but was only declaratory of an existing situation and made merely for information." To attempt to deal with this controversy even to the limited extent of giving an advisory opinion, "would be substantially equivalent to deciding the dispute between the parties."

But the Court found it to be "well established in international law that no State can without its consent be compelled to submit its disputes with other States either to mediation or to arbitration, or to any other kind of pacific settlement." The Court intends to abide by this principle very strictly. "The Court, being a Court of Justice, cannot, even in giving advisory opinions, depart from the essential rules guiding their activity as a Court." So in this case the Court regretfully declined to give any opinion. Yet it took account of the long history of the dispute, and added that it did not "regret that the question has been put" by the Council of the League of Nations, for "all must now realize that the Council has spared no pains in exploring every avenue which might possibly lead to some solution."

Four of the judges did not share the conclusions of the majority, however. These conclusions are rather curiously referred to as an "opinion," and are published in the "Collection of Advisory Opinions," though in reality they amount to a refusal to give an opinion. This refusal is a clear indication of the judges' determination that the limitations surrounding judicial action are to be rigidly observed, even in the exercise of their function of giving advisory opinions.

First Judgment of the Permanent Court of International Justice—Case of the S. S. *Wimbledon*, involving freedom of the Kiel Canal [1]

Article 380 of the Treaty of Versailles of June 28, 1919, forbids Germany's applying to the Kiel Canal a neutrality order which would close the canal to a British vessel under French charter carrying munitions to Danzig for transshipment to Poland during a war between Poland and Russia.

On January 16, 1923, the British, French, Italian and Japanese Governments made "application" to the Permanent Court of International Justice asking for judgment whether the German Government "is present or absent," that "the German authorities wrongfully refused on March 21, 1921, free access to the Kiel Canal of the steamship 'Wimbledon,'" and that reparation be awarded for the loss incurred by the *Wimbledon*. The application set forth the provision in the Treaty of Versailles (Art. 380) that "The Kiel Canal and its approaches shall be maintained free and open to the vessels of commerce and war of all nations at peace with Germany on terms of entire equality." To vest jurisdiction in the Court, the applicant Powers relied on Article 386 of the Treaty of Versailles, though Germany seems to have been entirely willing to go before the Court and did not at any time contest the jurisdiction. [2]

The Court was seised of the case when it met on June 15, 1923. Under Article 31 of the Court Statute, a German national, Pro-

[1] Reported in the Publications of the Permanent Court of International Justice, Series A, No. 1.

[2] See 18 American Journal of International Law, p. 11.

fessor Walter Schücking of the University of Berlin, had been named by Germany to sit as a judge *ad hoc*. On June 28, Poland's application to "intervene" was approved. The applicant Powers had submitted a *case* on March 17; Germany a *counter-case* on April 20; the applicants a *reply* on May 18; and Germany a *rejoinder* on June 15. Between July 5 and July 10 oral arguments were heard by the agents of each of the six Powers that were parties, the German agent speaking in the German language and the other agents speaking in French or English.

The facts were admitted, though there was some controversy as to whether Poland and Russia were still at war on March 21, 1921, when the *Wimbledon* was excluded from the Kiel Canal. The chief problem related to the construction to be placed on Article 380 of the Treaty of Versailles. In the judgment handed down on August 17, 1923, the Court found "that the terms of Article 380 are categorical and give rise to no doubt." The conclusion followed "that the canal has ceased to be an internal and national navigable waterway, the use of which by vessels of states other than the riparian state is left entirely to the discretion of that state, and that it has become an international waterway intended to provide under treaty guarantee easier access to the Baltic for the benefit of all nations of the world." Hence the Court found Germany under an obligation to keep the Kiel Canal "open, on a footing of equality, to all vessels, without making any distinction between war vessels and vessels of commerce, but on one express condition, namely, that these vessels must belong to nations at peace with Germany."

The Court referred to the "precedents afforded by the Suez and Panama Canals" which in its opinion "invalidate in advance the argument that Germany's neutrality would have necessarily been imperilled if her authorities had allowed the passage of the *Wimbledon*." The Canal has become so "assimilated to natural straits" that even "the passage of a belligerent man-of-war does not compromise the neutrality of the sovereign State under whose jurisdiction the waters in question lie." It was not necessary to say whether the war between Poland and Russia had terminated, for in any case Germany had a duty by treaty to allow the *Wimbledon* to pass. Her refusal was therefore wrongful, and Germany "is responsible for the loss occasioned by this refusal

and must compensate the French Government" acting on behalf of the French firm of charterers. The amount of compensation awarded was 140,749.35 francs, as against 165,749.35 francs claimed.

Three of the judges dissented, including the German national judge. Judges Anzilotti (Italy) and Huber (Switzerland) thought that the "legal status of the Kiel Canal resembles that of the internal navigable waterways of international concern"; that Germany's obligation to maintain the Canal free and open "does not exclude her right to take the measures necessary to protect her interests as a belligerent or neutral power"; and that Germany's neutrality regulation in this case was not "an arbitrary act calculated unnecessarily to impede traffic." Judge Schücking (Germany) thought that a servitude had been imposed on the Kiel Canal, which called therefore for a restrictive interpretation; and in this case the passage of the *Wimbledon* would not have been "compatible with Germany's duties as a neutral toward Russia."

The decision is a notable one for several reasons. It is the first contested case to come before the Permanent Court of International Justice, all the other cases having come by requests for advisory opinions. It is the first case in which a specially chosen national judge has participated. It will constitute for the future a valuable addition to international law as to the Kiel Canal and as to the use of all inter-oceanic canals in time of war.

Sixth Advisory Opinion of the Permanent Court of International Justice—Protection of German Settlers in Poland[1]

Poland's international obligations under the Minorities Treaty of June 28, 1919, involve the protection of German colonists sent into German Poland before the war, requiring Poland to respect contracts and leases made by the German Government with these colonists; and the position taken by Poland after the war was not in conformity with its international obligations.

On February 3, 1923, the Council of the League of Nations adopted a resolution requesting the Permanent Court of Interna-

[1] Reported in Publications of the Permanent Court of International Justice, Series B, No. 6.

tional Justice to give an advisory opinion on two questions: (1) whether Poland's refusal to recognize contracts and leases made by certain German colonists with the German Colonization Commission before the end of the war, involved an international obligation within the competence of the League of Nations under the Polish Minorities Treaty of June 28, 1919; and, (2) if so, whether Poland's position with respect to these contracts and leases was in conformity with her international obligations.

The matter came before the Court when it met for its fourth session on June 15, 1923. Various documents were submitted by the Council of the League of Nations and by the Polish and German Governments. Oral arguments were heard also by the representatives of the Polish Government, Count Rostoworski and Sir Ernest Pollock, formerly Attorney-General of Great Britain, and by the representative of Germany, M. Schiffer, ex-minister of Justice.

The Polish Government had ousted two classes of German colonists: those holding under contracts entitling the colonist to receive title to the land, where the definitive conveyance had not been completed until after the armistice of November 11, 1918; and those holding under leases for which such contracts had been substituted after the date of the Armistice. On May 17, 1922, the Council of the League of Nations had requested Poland to suspend such measures.

In its opinion announced on September 10, 1923, the Court first considered the competence of the League of Nations to deal with the matter, under the provisions of the Minorities Treaty. In this connection, it held that "the fact that no racial discrimination appears in the text of the law of July 14, 1920, and that in a few instances the law applies to non-German Polish nationals who took as purchasers from original holders of German race, makes no substantial difference. . . . There must be equality in fact as well as ostensible legal equality in the sense of the absence of discrimination in the words of the law." It then held that the German Government "is to be considered as having continued to be competent to undertake transactions falling within the normal administration of the country" in the period between November 11, 1918, when the Armistice was signed, and January 10, 1920, when the Treaty of Versailles came into force.

Proceeding then to examine the legal character of the contracts under which the settlers held, the Court found that they were enforceable contracts which gave interests in the land not unlike the interests of a holder of an equitable title in Anglo-American law. "A purchaser acquired a *jus ad rem*, and after *auflassung* had a *jus in re*." And it was careful to announce that "the fact that there was a political purpose behind the colonisation scheme cannot affect the private rights acquired under the law." Such private rights, whether acquired by contract or by lease, "do not cease on a change of sovereignty," nor is any treaty provision required to preserve them. No provisions in the Treaty of Versailles had prohibited Germany's dealing with such rights in the ordinary normal way, even after the Armistice, and hence Poland was bound to respect such dealing on taking over the governance of the territory. The Court therefore pronounced that "the position adopted by the Polish Government . . . was not in conformity with its international obligations."

When the question later came before the Council of the League of Nations on December 17, 1923, Poland announced that her policy would be re-shaped to accord with the law enunciated by the Court, and agreed to compensate colonists already ousted illegally and suspend further proceedings against other colonists.

Seventh Advisory Opinion of the Permanent Court of International Justice—Acquisition of Polish Nationality by German Settlers[1]

Under the Treaty for the Protection of Minorities in Poland, the Council of the League of Nations is competent to deal with questions as to acquisition of Polish nationality by German Settlers, and Article 4 of the Treaty makes habitual residence of parents at the date of birth of settlers concerned, but not at any later date, a condition of acquiring nationality.

On July 7, 1923, the Council of the League of Nations adopted a resolution requesting the Permanent Court of International Justice to give an advisory opinion on the competence of the

[1] Reported in Publications of the Permanent Court of International Justice, Series B, No. 7.

League of Nations under the Minority Treaty between the Principal Allied and Associated Powers and Poland, and on the proper interpretation to be placed on Article 4 of that Treaty. The Court was in session when the resolution was adopted, and became seised of the questions on receipt of a letter from the Secretary-General of the League, dated July 11, 1923.

Notice of the request was sent to all Members of the League of Nations, to the United States, Ecuador and the Hedjaz as states mentioned in the Annex to the Covenant, and to the German Government. The decision of the Court to send notice to Germany has evoked some adverse criticism on the ground that Germany is not a party in interest with respect to a question arising under the Minority Treaty between the Allied Powers and Poland, even though the question relates to a Germanic group in Poland. But the Court's action would seem to have been a proper exercise of discretion, even though Article 73 of the Rules of Court did not require it. Oral arguments were heard on behalf of Poland and of Germany, but Rumania's request to be heard came too late.

The question was originally raised by a petition of November 12, 1921, of the Germanic League of Bydgoszcz submitted to the Council. Article 4 of the Minority Treaty provides that

> Poland admits and declares to be Polish nationals *ipso facto* and without the requirement of any formality persons of German, Austrian, Hungarian or Russian nationality who were born in the said territory of parents habitually resident there, even if at the date of the coming into force of the present treaty they are not themselves habitually resident there.

The Polish Government had decided to treat certain persons who were former German nationals as not having acquired Polish nationality and as continuing to possess German nationality, because their parents were not habitually resident in the territory, both on the date of birth of the person concerned and on the date when the Minority Treaty came into force on January 10, 1920. When the question was raised in the Council of the League of Nations, Poland contended that it was not within the jurisdiction of the Council, which was limited to questions concerning minorities consisting of Polish nationals. It was necessary for the Court therefore to deal with this basic question of jurisdiction,

as well as with the proper interpretation of the nationality provisions of the treaty.

In the unanimous opinion handed down on September 15, 1923, the Court held that the matter was within the competence of the League of Nations. The statesmanship of the Court is evidenced by its general appreciation of the nature of the minorities treaties, and the office which they are designed to serve in the postwar world:

> The Minorities Treaties in general, and the Polish Treaty in particular, have been concluded with new States, or with States which, as a result of the war, have had their territories considerably enlarged, and whose population was not therefore clearly defined from the standpoint of political allegiance. One of the first problems which presented itself in connection with the protection of the minorities was that of preventing these States from refusing their nationality, on racial, religious or linguistic grounds, to certain categories of persons, in spite of the link which effectively attached them to the territory allocated to one or other of these States. It is clearly not a purely fortuitous circumstance that the Treaties for the protection of minorities contain provisions relating to the acquisition of nationality. Again, the fact that in some cases these provisions merely repeat, either in their entirety or in part, principles laid down in the Peace Treaties, would appear to be explained by the intention to extend to these principles the guarantee of the League of Nations, no matter what points of difference or resemblance there may be between these treaties.

Lord Finlay concurred in the conclusions of the Court, but he would have gone further in his definition of the minorities protected by the treaty:

> It therefore appears that while such elementary rights as those of life and liberty are secured to all inhabitants, there are a great many rights secured to Polish *ressortissants* only, and it is with regard to such rights that the question of unfair treatment of minorities must arise in the immense majority of cases. Of course, it is conceivable that there might be a case in which protection for life and liberty was refused to some unpopular minority of inhabitants. In that case the minority would be one of a mass of inhabitants, whether Polish nationals or not; but such cases must be rare. The point will arise in the immense majority of cases with regard to such Articles as 7, 8 and 9 and the rights which they confer on all Polish *ressortissants* including German or other minorities.

Having decided the question of competence, the Court proceeded to hold that the Polish Government had improperly required that parents of the persons in question should be living in the territory on January 10, 1920, as well as on the date of birth of their children. It was of the opinion that the clause of the Treaty quoted "leaves little to be desired in the nature of clearness." And it was pointed out that the interpretation contended for by Poland would have the effect of depriving of Polish nationality a person born in Poland of parents habitually resident there at the time, simply because his parents were dead on January 10, 1920.

The advisory opinion was duly transmitted to the Secretary-General of the League of Nations, and on September 22, 1923, the Council "adopted" it. The matter has since been the subject of negotiation between Poland and Germany, though Poland appears to be disposed to acquiesce in the decision of the Court.

Eighth Advisory Opinion of the Permanent Court of International Justice—The Jaworzina Boundary Question Between Poland and Czechoslovakia[1]

A decision by the Conference of Ambassadors with reference to the boundary between Poland and Czechoslovakia, accepted by both States, was definitive and the question was not reopened by later negotiations.

On September 27, 1923, the Council of the League of Nations adopted a resolution requesting the Permanent Court of International Justice to give an advisory opinion on the question whether the delimitation of the frontier between Poland and Czechoslovakia in the region known as the Spisz district (Jaworzina) was still open, or whether it should be considered as settled by a definitive decision of the Conference of Ambassadors. The resolution set forth the case of the Polish Government and the case of the Czechoslovak Government, and the Council requested the two governments concerned to be prepared to assist the Court by furnishing it with relevant documents and information. A

[1] Reported in Publications of the Permanent Court of International Justice, Series B, No. 8.

dossier communicated to the Council by the Conference of Ambassadors was transmitted to the Court.

The Court became seised of the matter on receipt of a letter from the Secretary-General of the League of Nations, dated September 29, 1923. In view of the urgency, the Court convened in extraordinary session on November 12, 1923. This session continued from November 12 to December 6, when the opinion was handed down. The Polish Government was represented by M. Mrozowski, President of the Supreme Court of Poland, and the Czechoslovak Government by Professor Krcmar and Dr. Krno. Oral arguments on both sides were heard on November 14.

The question of the boundary between Poland and Czechoslovakia had long been before the Conference of Ambassadors at Paris, which on July 27, 1923, decided to lay the difficulties before the Council of the League and to ask the Council to recommend a solution. It was stated that the Governments represented in the Conference of Ambassadors would have no objection should the Council see fit to ask the opinion of the Court of International Justice on the legal questions involved. It had been decided on September 27, 1919, that a plebiscite should be held in the Spisz district, but so many difficulties developed that the Spa Conference in July, 1920, suspended this arrangement. On July 28, 1920, the Conference of Ambassadors at Paris had decided upon a boundary line between Poland and Czechoslovakia, subject to modifications of detail by a delimitation commission. This decision had been accepted by both Poland and Czechoslovakia. Later negotiations had been undertaken, however, which continued for three years without reaching any different result. So it became necessary to determine whether the decision of the Conference of Ambassadors of July 28, 1920, had a final character.

The opinion of the Court was unanimous that the decision of July 28, 1920, was to be treated as definitive. "The final character of the decision referred to above is also shown, with special clearness, by the declaration appended to the decision, which is signed by the plenipotentiaries of Poland and Czechoslovakia." Not only was "the task entrusted to the Conference of Ambassadors by the Supreme Council fulfilled by the decision of the Conference, but the decision itself was put into execution." It was necessary for the Court to review the entire history of the negotiations

which followed the Spa Conference. Throughout this review, the Court showed a disposition to take account of the complexities of the postwar situation and the difficulties in stabilizing it.

"When, as a result of the European War and the dissolution of the Austro-Hungarian Monarchy, Poland and Czechoslovakia were re-established as independent States, their frontiers were, generally speaking, indicated by the same historical and ethnological factors which had led to their reconstitution.

The necessity remained, however, either for a formal pronouncement with regard to the extent of the territories respectively allocated to two States above-mentioned or for a settlement of territorial questions in regions where, owing to special circumstances, the historical or ethnological frontier remained uncertain or met with difficulties which prevented the parties concerned from voluntarily accepting it.

The task of ensuring the recognition of the frontiers of the new States and of settling disputes which might arise between them was undertaken by the Principal Allied and Associated Powers represented in the Supreme Council then sitting at Paris."

But the two States were held to have given to the decision of the Conference of Ambassadors "over and above the authority possessed by a decision of the Principal Allied and Associated Powers," the "force of a contractual obligation."

A question also arose as to the effect of later interpretations placed on the decision by the Conference of Ambassadors itself. The Court refused to admit that the Conference was competent to change the clear effect of a decision by a later interpretation.

"The duties of the Conference, as has already been pointed out by the Court, had some points in common with those of an Arbitrator entrusted by two States with the settlement of a frontier dispute between them. But in the absence of an express agreement between the parties, the Arbitrator is not competent to interpret, still less modify his award by revising it. The decision of July 28th, which was accepted by the Polish and Czechoslovak Governments, contains no mention of an agreement of this kind."

Through long and tedious negotiations by different officials, the Court traced the history of the efforts to reach a settlement of the boundary question without its aid. In the end, it was determined that these negotiations did not have the effect of upsetting the original decision of the Conference of Ambassadors on July 28,

1920, which is definitive. It was pointed out, however, that this decision should be applied in its entirety, with authority in the delimination commission to make modifications of detail in marking out the actual boundary.

The advisory opinion was duly transmitted to the Council of the League of Nations which met in Paris in December, 1923. An effort has since been made to reach agreement between Poland and Czechoslovakia on the basis of the Court's conclusions.

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Chile
China
Colombia
Costa Rica
Cuba
Czechoslovakia
Denmark
Esthonia
Finland
France
Greece
Haiti
Hungary
India
Italy
Japan
Latvia
Liberia
Lithuania
Luxemburg
Netherlands
New Zealand
Norway
Panama
Paraguay
Persia
Poland
Portugal
Rumania
Salvador
Serb-Croat-Slovene State
Siam
South Africa, Union of
Spain
Sweden
Switzerland
Uruguay
Venezuela

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Brazil
Bulgaria
China
Costa Rica
Denmark
Esthonia
Finland
Haiti
Latvia
Liberia
Lithuania
Luxemburg
Netherlands
Norway
Panama
Portugal
Salvador
Sweden
Switzerland
Uruguay

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